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## **Kant's Critique of Revolution and the Nature of his Political Thought**

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~ King's College London ~  
Department of Philosophy

# **Kant's Critique of Revolution and the Nature of his Political Thought**

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~ MPhilStud dissertation ~  
September, 2014

“Animals without reason neither see, nor believe that they see, any defect in the conduct of their common affairs; but any group of men, includes a large number who suppose themselves cleverer than the rest, and make attempts to change things, and they differ among themselves and try different things, and that is dissension and civil war”.

~ **Hobbes** ~

“The point of departure is order, which alone can produce freedom. Without order the appeal to freedom is no more than the quest of some specific party for its special objectives, and will in practice always lead to tyranny...I have always considered despotism of any kind a symptom of weakness. Where it appears, it condemns itself; most intolerably where it appears behind the mask of advancing the cause of freedom”.

~ **Metternich** ~

“To construct in order to demolish; to take upon ourselves the hopeless task of rolling the stone of Sisyphus uphill, only to let it role back down again: such is the industrious folly which characterizes our race”.

~ **Kant** ~

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## ***Introduction:***

Kant's repudiation of revolution and of a right of rebellion is unequivocal. In the body of his political writings<sup>1</sup> he affirms with vehemence that "all resistance against the supreme legislative power", and "all defiance which breaks out into rebellion" is "the greatest and most punishable crime in a commonwealth, for it destroys its very foundations", adding that "this prohibition is absolute".<sup>2</sup>

Indeed he rejects the procedures of the "political revolutionaries", for the coming about of radical political change make "all lawful constitutions insecure and produce a state of complete lawlessness where all rights cease at least to be effectual".<sup>3</sup> Finally, Kant concedes that it is certainly a "pleasant dream" to think of better constitutions that exist in harmony with the principles of right, but "it is foolhardy to put them forward seriously", and in the highest degree "punishable" to incite the people to banish the constitutions they now have.<sup>4</sup>

Contrary to the conclusive character of Kant's position, his views were received by his contemporaries with bewilderment and even consternation. For Kant's "radical followers"<sup>5</sup>, a rejection of a right of resistance contradicted the precious Kantian principles of moral freedom, self-government and anti-paternalism they had gladly welcomed. According to Erhard, the question of a right of rebellion "belongs therefore alone in the court of morality, and the right to start a revolution cannot be positively given or taken away".<sup>6</sup>

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<sup>1</sup> The writings in question, and the translations used in this study are: "Idea for a Universal History with a Cosmopolitan Purpose" (1784) [henceforth "*Idea*"], trans. H. B. Nisbet in *Kant's Political Writings* ed. H. S. Reiss (Cambridge University Press: Cambridge, 1991); "An Answer to the Question: 'What Is Enlightenment?'" (1784) [henceforth "*What is Enlightenment?*"], trans. Nisbet in Reiss; "On the Common Saying: 'This May Be True In Theory, But It Does Not Apply in Practice'" (1793) [henceforth "*Theory and Practice*"], trans. Nisbet in Reiss; "Perpetual Peace. A Philosophical Sketch" (1795) [henceforth "*Perpetual Peace*"], trans. Nisbet in Reiss; *The Metaphysical Elements of Justice* (1798) [henceforth "*Doctrine of Right*"], trans. J. Ladd (Hackett Publishing Company: Indianapolis, 1999); and *The Contest of Faculties* (1798) [henceforth "*Contest of the Faculties*"], trans. Nisbet in Reiss. All references will be given to the pagination in *Kant's Political Writings*, except otherwise noted. References to the Academy edition are given only for the *Doctrine of Right*.

<sup>2</sup> *Theory and Practice*, p. 81

<sup>3</sup> *Ibid.*, p. 82

<sup>4</sup> *Contest of the Faculties*, p. 188n

<sup>5</sup> I am here following Reidar Malik's (2012) Cf. Malik (2012) 'Revolutionary Epigones: Kant and his Radical Followers' *History of Political Thought*, Vol. XXXIII, No. 4.

<sup>6</sup> Erhard, *Über das Recht zu einer Revolution* (1795) in Malik (2012) p. 660

Thus, for this group of “left-Kantians”,<sup>7</sup> the philosophy of freedom as autonomy embodied an inherent call for its realization in our social and political institutions. On this understanding, revolution *had* to be justified in order to make, in Schiller’s words, “true freedom the basis of political association”.<sup>8</sup> Surprisingly, this initial reaction still resonates in recent interpretations of Kant’s political philosophy. In the current literature on Kant’s political thought, it is quite common to contest the philosopher’s views on revolution with a sore tone of discontent.

In general, this debate has led some to argue that Kant actually “never wrote” a political philosophy,<sup>9</sup> or to wonder why Kant “had a political philosophy at all”, while at the same time making efforts to articulate a so-called “politics-accommodating Kantianism”.<sup>10</sup> Other critics assert that Kant’s political ideas “were revolutionary for his age”<sup>11</sup>, such that he deserved the incontestable title of “the philosopher of the French Revolution”,<sup>12</sup> leading some to ask if Kant’s dictum never to resist the sovereign can really “be true”.<sup>13</sup>

For the purposes of this study, I will refer to this group of interpreters as the “disappointed Kantians”<sup>14</sup>, as Katrin Filkschuh has characterized them,<sup>15</sup> whose

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<sup>7</sup> I borrow this term from Bernard Yack’s compelling analysis of the sources of modern social discontent, which he traces back to Kant’s critical philosophy. Cf. Yack, B. (1992) *The Longing for Total Revolution. Philosophical Sources of Social Discontent from Rousseau to Marx and Nietzsche* University of California Press: California.

<sup>8</sup> *Aesthetic Education*; Schiller in Yack (1992) p. 103

<sup>9</sup> Arendt, H. (1981) *Lectures on Kant’s Political Philosophy* The University of Chicago Press: Chicago, p. 31

<sup>10</sup> Riley, P. (2007) ‘Kant Against Hobbes in *Theory and Practice*’, *Journal of Moral Philosophy* 4, No. 2, p. 199

<sup>11</sup> Reiss, H. (1956) ‘Kant and the Right of Rebellion’, *Journal of the History of Ideas*, Vol. 17, No.2, p. 182

<sup>12</sup> Reiss, H. (1991) *Kant’s Political Writings* Cambridge University Press: Cambridge, p. 3

<sup>13</sup> Schwarz W. (1977) ‘The Ambiguities of Resistance: A Reply to Nicholson’, *Ethics*, Vol. 87, No 3, p. 255

<sup>14</sup> I take the “disappointed Kantians” to be a group of recent interpretations which, in various ways, have sought to make compatible Kant’s strict views against revolution with other aspects of his moral philosophy, in order to excuse him of alleged contradictions, or to ameliorate the patent tensions between his moral and political philosophy more generally. See Korsgaard, C. (1997) ‘Taking The Law into Our Own Hands: Kant on the Right of Revolution’, in *Reclaiming the History of Ethics: Essays for John Rawls* Cambridge University Press: Cambridge; Byrd, B. S & Hruschka, J. (2008) ‘From the State of Nature to the Juridical State of States’, *Law and Philosophy*, Vol. 27, No. 6; Maliks, R. (2013) ‘Kant, the State, and Revolution’, *Kantian Review*, Vol. 18, no 1; Westphal, K. (1992) ‘Kant on the State, Law, and Obedience to Authority in the Alleged Anti-Revolutionary Writings.’ *Journal of Philosophical Research* No. 17; Cummiskey, D. (2010) ‘Justice and Revolution in Kant’s Political Philosophy’ in *Rethinking Kant* Ed. Pablo Muchnik, Vol II Cambridge Scholar Publishers: Cambridge MA.

<sup>15</sup> Filkschuh, K. (2008) ‘Reason, Right, and Revolution: Kant and Locke’, *Philosophy & Public Affairs* 36, no. 4, p. 397

position is captured in the claim that: “The Kantian principle of autonomy is the ground that stands under, but should not be buried under, the principle of political obedience”, so if revolutions are necessary to safeguard autonomy, obedience must be overstepped, “whether Kant likes it or not”.<sup>16</sup>

However, it is the main thesis of this study that there is a clearly detectable, and unambiguously endorsed, critique of revolution in Kant’s political writings. This critique involves a repudiation of revolution that is deeply Kantian, both in its motivations and in the breath of its conclusions. My thesis is based on three further claims: first, I will argue that Kant’s views on revolution are answerable to his particular conception of the problem of politics as the reconciliation between order and freedom; second, that his critique of revolution is based on what I call Kant’s ‘Hobbesian commitments’; and finally, that Kant’s political thought more generally is an exception to Reinhard Koselleck’s thesis, according to which the Enlightenment sleepwalked from critique to crisis, without realizing that revolution meant civil war,<sup>17</sup> thus making Kant, contrary to other Enlighteners, a responsible political philosopher who was deeply concerned about the likely *outcome* of political change.

Here I depart from those who sought in Kant’s political philosophy a source for radical and revolutionary conclusions. On this I have followed Bernard Yack’s view, according to which the conceptual innovations inaugurated by Kant’s philosophy, epitomized in the dichotomy between freedom as autonomy and natural necessity, was the original source that “shaped the development of radical social thought in the nineteenth century.”<sup>18</sup>

According to Yack, the discontent of this group is based on their shared conviction that: “Man is justified in rejecting all political institutions that do not embody the capacity for autonomy that Kant’s critiques have rendered irrefutable”.<sup>19</sup> The coming about of new social and political structures better fitted to the claim of the realization of autonomy, was thus the germen of their disappointment. The revolutionary implications of these seminal thoughts, contrary to what Kant himself

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<sup>16</sup> Cummiskey, D. (2010) ‘Justice and Revolution in Kant’s Political Philosophy’ in *Rethinking Kant* Ed. Pablo Muchnik, Vol II Cambridge Scholar Publishers: Cambridge MA, p. 241.

<sup>17</sup> Koselleck R. (1988) *Critique and Crisis*, The MIT Press: Cambridge MA, p. 1.

<sup>18</sup> Reynolds, C. (1987) ‘Review: *The Longing for Total Revolution*. Bernard Yack’, *Soundings: An Interdisciplinary Journal*, Vol. 70, No. 3/4, p. 557

<sup>19</sup> Yack (1992) p. 102

intended as consequences of their innovative power, were appropriated by the “left-Kantians” such as Schiller, Schelling, and the young Hegel,<sup>20</sup> as well as Jakob, Erhard, Schlegel, and the early Fichte.<sup>21</sup>

Although I will not discuss the plausibility of Yack’s overall thesis, whose merits have been an important influence and intellectually rewarding for my thinking on these issues, I will argue for the strong connection that seems to be present between this general outlook on Kant’s political thought, and more recent interpretations that try to make compatible Kant’s rejection of a right of rebellion, with his notion of self- rule and his optimistic teleology.

This study then, will offer a contribution to this debate in the form of a close analysis and reconstruction of the texts, as well as a personal interpretation of Kant’s views on the issue of revolution. In intimating with Kant’s political writings, I have evidenced the pivotal role the problem of revolution plays in his political philosophy, as a point of convergence of the indissoluble tensions between authority and obedience, order and freedom, and right and autonomy.

This nest of problems motivated me to understand the deepness of Kant’s reasons for a categorical repudiation of revolutions. More specifically, I explain Kant’s critique of revolution on the basis of several commitments: a pessimistic view of human nature, a belief on the fragility of the juridical condition as the sphere of “civil security” (*Bürgerlichen Sicherheit*),<sup>22</sup> a mistrust on the collective action of the masses, a limited view of participatory politics, a rejection of popular sovereignty, and a stance in favor of positive law and authority to settle conflicts of right. I have traced back the lineage of these commitments to the influence of Hobbes.

Thus, in what follows, I depart from those who think that there is a “break”<sup>23</sup> in Kant’s political thought, either in terms of an improvement from a previous position<sup>24</sup>, or as Ernst Bloch observes, a regression “to a position before the

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<sup>20</sup> C.f. Yack (1992) pp. 89-132

<sup>21</sup> Malik’s (2012) “radical Kantians”, p. 647

<sup>22</sup> *Contest of the Faculties*, p. 230

<sup>23</sup> Heller, A. (1984) ‘La Primera y la Segunda Etica Kantiana’ in *Crítica de la Ilustración. Las Antinomias Morales de la Razón*. Península: Barcelona.

<sup>24</sup> Cf. L.W. Beck (2002) *Selected Essays on Kant*. Ed. Hoke Robinson. University of Rochester Press: Rochester; Byrd, S. & Hruschka, J. (2008)



eighteenth or even sixteenth century with respect to penal and civil law”.<sup>25</sup> I think that in reference to the problem of revolution and its corollaries, Kant maintained a consistent view both before and after the events of 1789, which allow us to see him as a moderate Enlightened thinker,<sup>26</sup> contrary to the political irresponsibility that Koselleck prefigures in that period.

In the end, I conclude that Kant’s anti-revolutionary credentials are well founded in the explicit content of his writings, but more importantly, at the level of the commitments that ground his political philosophy. I contend that the cement that holds in place the various components of Kant’s critique of revolution is made of a fundamentally Hobbesian material.<sup>27</sup> I finally claim that Kant’s attempt at the reconciliation between order and freedom reflects his particular position as a political thinker in the wider spectrum of the Enlightenment. I thus hope that the present analysis of his critique of revolution, both of its causes and its consequences, does not leave the reader disappointed.

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<sup>25</sup> Bloch, E. (1987) *Natural Law and Human Dignity* The MIT Press: Cambridge, p. 66

<sup>26</sup> I broadly agree with Jonathan Israel’s description of a strand of “moderate Enlightenment” as distinct from a conservative and a radical one. I expand on this in Chapter 3, section 3.1 ‘Kant and the Enlightenment’. Cf. Israel, J. (2001) *Radical Enlightenment. Philosophy and the Making of Modernity 1650-1750* Oxford University Press: Oxford. See Introduction, and Part II, chap. 15 ‘Philosophy, Politics, and the Liberation of Man’.

<sup>27</sup> All references to Hobbes will be made to *On the Citizen* (1998) [henceforth *De Cive*] trans. Richard Tuck, Cambridge University Press: Cambridge, and *Leviathan* (2005) [henceforth *Leviathan*] trans. Richard Tuck, Cambridge University Press: Cambridge.

## **Chapter I: Kant and the Problem of Politics**

The purpose of this Chapter is to explore Kant's definition of the problem of politics, which he considers "the most difficult and the last to be solved by the human race".<sup>28</sup> I argue that this problem should be understood in Kant as the reconciliation between order and freedom. I proceed by tracing this claim back to Kant's writings before and after 1789, in order to give evidence of the plausibility of my definition. I continue to show that Kant's particular conception of politics is at the basis of his critique of revolution. The complexity of Kant's critique of revolution can be better understood as being *answerable* to the fundamental problem posed by politics. I finally discuss the consequences that Kant's views on politics, and his repudiation of revolution, had for his radical followers at his time, as well as for some of his contemporary interpreters. I conclude that such a definition of the problem of politics *demand*ed a repudiation of revolution, leaving some of his followers with alleged reasons for disappointment.

### ***1.1. The animal who needs a master: the initial formulation***

Politics becomes a problem for Kant as early as his *Idea for a Universal History* of 1783, and continues to be a concern in his post-1789 political writings. There is a remarkable continuity in the way he defines the problem of politics, and also an evolution in his discussion of the possible solution to it. Several aspects of Kant's early treatment need to be emphasized from the outset: first, Kant acknowledges the inherent complexity of the nature of this problem, one that tries to reconcile individual freedom with external authority; second, he also says that a perfect solution to the problem is impossible; third, these assertions operate with an unequivocally realist, pessimistic view of human nature, according to which man does not recognize the limits that others impose on his freedom but "certainly abuses his freedom in relation to others of his own kind".<sup>29</sup>

On the basis of these premises, Kant first sketches the problem of politics in two stages: One, we human beings are free but tend to abuse our freedom; and two, as

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<sup>28</sup> *Idea*, p. 46

<sup>29</sup> *Ibid.*, p. 46; 49

a consequence of the obstacles we find for coexisting with others, “man is an animal who needs a master”.<sup>30</sup>

Kant develops a view of man not as he ought to act but as he actually does act, motivated by “the desire for honor, power or property”, which drives him to seek status among his fellows, “whom he cannot *bear* yet cannot *bear to leave*”<sup>31</sup>. Man, Kant writes, is “enamoured with unrestrained freedom”, and therefore his entering into the civil union is an action done under pressure: man is “forced to enter this state of restriction by sheer necessity”, a necessity imposed by men upon themselves in that their inclinations make it impossible for them to exist side by side for long “in a state of wild freedom”.<sup>32</sup>

It should be noted that the basic structure of this initial formulation of 1784, defined in terms of the limits of freedom and the need for authority, accompanies Kant in his later works on *Perpetual Peace* (1795) and up to the more comprehensive arguments of the *Doctrine of Right* (1797).<sup>33</sup> In these works, Kant expands on the role of our interests and inclinations, on our tendency to abuse our freedom, and on the identity between right, authority, and coercion to enable the conditions for the co-existing freedom of all. However, the initial formulation remains untouched.

I contend that from these initial remarks, Kant’s definition of the problem of politics can then be stated as the reconciliation of freedom and order; in other words, as the creation of a civil union in which man’s tendency to live as an individual, pursuing his inclinations and his interests, can be “enclosed within a precinct” in which “freedom under external laws would be combined to the greatest possible extent with irresistible force”.<sup>34</sup>

In following this point, a clarification is important. I understand order here as having, for Kant, a particular aim, form, and status. The aim of *political* order, the one in question in his formulation of the problem of *politics*, is the establishment and protection of what he calls “civil security”; the form of such an order is defined by

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<sup>30</sup> *Idea*, p. 46

<sup>31</sup> *Ibid.*, p. 44

<sup>32</sup> *Ibid.*

<sup>33</sup> Cf. *Perpetual Peace*, pp. 112-113; *Doctrine of Right*, Introduction §D; §45; §49.

<sup>34</sup> *Idea*, pp. 45-46

Kant essentially as coercion, that is, “the possibility of external coercion that is compatible with the freedom of everyone”,<sup>35</sup> and finally the status of order is one of fragility and constant threat.

Taken together, these claims allow us to offer two different senses of order: in a narrow sense, order is for Kant equivalent to law-governed, a juridical condition or state of affairs “that involves the conditions under which alone everyone is able to enjoy his right”.<sup>36</sup> In a broader sense, order is an essentially political notion equivalent to power, and more specifically, with existing power. This broader sense of order seems to be at work in the *Doctrine of Right* when Kant says:

[W]hether the *power* (*Gewalt*) came first and the *law* only appeared after it, or whether they ought to have followed this order –these are completely futile arguments for people that are already subject to civil law, and they constitute a menace to the state.<sup>37</sup>

As we will see later on in this study, the status of both senses of order is vulnerable, every time a revolution attempts to “suspend its effectiveness”. This Kant will consistently condemn as “practically a crime”.<sup>38</sup>

Moreover, it is the task of politics to reconcile order and freedom, where freedom here is defined essentially in terms of coexistence: freedom in its external character as an action, or a condition that can “coexist with the freedom of everyone in accordance with a universal law”.<sup>39</sup> We see that in the sphere of public right Kant is working with a restricted notion of individual freedom, one that assimilates Metternich’s reflection according to which “liberty was inseparable from authority, that freedom was an attribute of order”.<sup>40</sup> This notion is rather different from freedom as self-rule, as the sort appraised by the “left Kantians”.

As a political philosopher, Kant develops his views on the problem of order and freedom with the aid of a political anthropology. As in the case of Hobbes, Kant

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<sup>35</sup> *Doctrine of Right* § E, 332

<sup>36</sup> *Ibid.*, § 41, 306

<sup>37</sup> *Theory of Right*, General Remark A in *Kant’s Political Writings*, H. B Nisbet trans., p. 143, my emphasis. I use Nisbet’s translation here as I think it better captures the point I want to make in my argument. In Ladd’s translation, however, we find “authority” in the place of “power”. In the original German it reads: “...oder ob die **Gewalt** vorherging, und das Gesetz nur hintennach gekommen sei...”

<sup>38</sup> *Ibid.*, p. 143

<sup>39</sup> *Doctrine of Right*, § C 230

<sup>40</sup> Metternich in Kissinger, H. (1957) *A World Restored* The Riverside Press: Cambridge, p. 191

does not need to state that man is *evil by nature* to draw a realistic picture of the problem he has set to solve. It can be argued that the claim that man is evil by nature is at the basis of Hobbes' political philosophy, but –writes Leo Strauss–“he did not dare to uphold this consequence or assumption of his theory.”<sup>41</sup>

Similarly, it was possible for Kant to work, and I believe he does so, with the weaker claim that “human beings *may* be evil by nature, and that this is a possibility which any political theory must seriously consider”.<sup>42</sup> This view seems to be confirmed by Kant's pessimism regarding moral progress, and his consciousness of the uncertainty of man's actions since his will is a “mixture of evil and goodness in unknown proportions, no-one can tell what effects he should expect from his own actions”.<sup>43</sup> In the same section of *The Contest of the Faculties*, we read:

In view of the frailty of human nature, and the fortuitous circumstances which can intensify its effects, we can expect man's hopes of progress to be fulfilled only under the positive condition of a higher wisdom...and in so far as *human beings* can themselves accomplish anything or anything can be expected of them, it can only be through their negative wisdom in furthering their own ends.<sup>44</sup>

The pessimistic outlook of man's capacity to comply with the law, and to compel each other to respect the limits of freedom is a “methodological assumption”<sup>45</sup> present all throughout Kant's political writings, and it is more markedly in his discussion on revolution, an assumption that makes a methodological link between human nature and coercion, that is, “that evil aspect of human nature which makes coercion necessary”.<sup>46</sup>

## ***1.2 The nation of devils: the separation of morality and politics.***

Kant's initial formulation of the problem of politics already presents the basic complexity pertaining to a sphere of human action where, in his own words, “social incompatibility, enviously competitive vanity, and insatiable desires for possession or

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<sup>41</sup> Strauss, L. (1952) *The Political Philosophy of Hobbes* The University of Chicago Press: Chicago, p. 13

<sup>42</sup> James, D. (2012) ‘The Role of Evil in Kant's Liberalism’, *Inquiry* 55(3), p. 242

<sup>43</sup> *Contest of the Faculties*, p. 181

<sup>44</sup> *Ibid.*, p. 189

<sup>45</sup> James (2012) p. 246

<sup>46</sup> *Perpetual Peace*, p. 126

even power” function as driving forces of action.<sup>47</sup> To be sure, Kant recognizes that these motivations may foster the development of man’s natural capacities, and expresses the hope, not always consistently maintained in his work, that a long process of education will lead to higher stages of moral maturity.

However, Kant takes a decisive turn in *Perpetual Peace* (1795) by showing that morality, that is, a morally good will, need not be a condition to solve the problem of our concern: “For such a task does not involve the moral improvement of man”; it only means finding out how to compel one another to the force of “coercive laws”, producing “a condition of peace within which the laws can be enforced”.<sup>48</sup>

At this point, it becomes clear that a *juridical* and *political* order, the narrow and broad senses of order we have proposed, are not seen as the result of our morally, well-disposed, intentions to comply with coercive laws, but Kant suggests a dialectic that is quite the opposite: “[I]t is only through [good political constitutions] that the people can be expected to attain a good level of moral culture.”<sup>49</sup> Presented in these terms, Kant introduces here a fundamental separation between political progress and moral progress, that is, between politics and morality. This does not render them necessarily incompatible, but serves to show that a possible reconciliation between order and freedom must be based on the strictly external character of our relations, reducing morality to the private sphere of the individual, what Hobbes called the “*foro interno*”.<sup>50</sup>

Moreover, this distinction fosters a new emphasis on the definition of the problem of politics with the aid of Kant’s notion of “unsocial sociability”.<sup>51</sup> The natural mechanisms of nature and our selfish interests work together towards better forms of political order, and hopefully moral improvements in our species.

This new dimension of the problem of politics starts sinking Hobbesian elements into the argument for the necessarily coercive nature of the state, in the context of the workings of Kant’s political anthropology. Kant’s marked realism in

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<sup>47</sup> *Idea*, p. 45

<sup>48</sup> *Perpetual Peace*, p. 113

<sup>49</sup> *Ibid.*, p. 113

<sup>50</sup> For a detailed discussion of Hobbes’s separation between *foro interno* and *foro externo*, and its effects in the rise of the Enlightenment thought see Koselleck, R. (1988) *Critique and Crisis*, pp. 25-26

<sup>51</sup> *Idea*, pp. 46-47

matters of human interests and inclinations and their effects thus becomes manifest. Patrick Frierson has rightly linked this issue with Kant more general similitudes with Hobbes; on this Frierson says that: “even without any moral interests, conflicts among humans will lead to find laws to which they subordinate themselves and others in order to achieve peace and stability necessary for the satisfaction of desires”.<sup>52</sup>

At this stage, Kant acknowledges that coercive authority is required to produce a condition, i.e. a legal and political condition, in order for the law to be enforced, even if our private interests conflict with one another. However, I am not suggesting that the state comes into play as a mere *remedy* for our difficulties to comply with the law set by the civil condition.<sup>53</sup> I think that the way Kant frames his discussion here is far more interesting, and serves as the basis for his later views in the *Doctrine of Right* (1797).

Indeed, in recognizing our tendency to “secretly exempt” ourselves from the law that limits our freedom Kant is, in my opinion, making a point not only in respect to human nature in its external character, but more importantly, acknowledging the inherent *vulnerability* and *fragility* of institutional solutions which are subject to what Kruger has called “freedom’s power for evil”,<sup>54</sup> that is, in the realm of politics, our tendency to antagonize and violate the limits of other people’s freedom.

What emerges from the above is Kant’s re-affirmation of the claim that the reconciliation between order and freedom demands protecting “civil security”, by means of strengthening authority. This original insight paves the way for Kant’s ultimately authoritarian solution to the problem of politics in the *Doctrine of Right*, by conceding unequivocal legitimacy to positive law, and also proposing a passive notion of citizenship, a limited view of participatory politics, and an absolute repudiation of revolutionary action against the extant authorities. In this context I argue that Kant’s state is primarily aimed at the protection of the *conditions* for freedom, and not at its maximization.

### ***1. 3 Anarchy and autonomy: a challenge for Kantian Politics***

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<sup>52</sup> Frierson, P. (2013) *What is a Human Being?* Routledge: London, p. 85

<sup>53</sup> This point will be discussed in Chapter II, section ‘Remedial views of justice’, in relation to Ripstein (2013)

<sup>54</sup> Kruger, G. (1961) *Critique et Morale Chez Kant* Beaucherne et Fils: Paris, p. 245, my translation.

Thus far I have argued for three main claims: first, Kant's definition of the problem of politics as the reconciliation between order and freedom finds its basic structure in *Idea*, and is consistently maintained throughout his political writings. Second, on the basis of a negative view of human nature, and an analysis of the inherent fragility of the juridical and political condition, Kant is committed to establishing a separation between morality and politics, and a strict conception of freedom in its external character. Finally, this diagnosis furnishes Kant's prioritization of order, in terms of a strengthening of authority.

However, these suggestions are difficult to make compatible with a fundamental Kantian principle: the principle of autonomy. The fragility of civil security, subjected permanently to the pressures of our evil dispositions and conflicting interests is, somewhat paradoxically, related to the role of autonomy in Kantian ethics. The question is: how can the problem of politics as understood thus far involve a claim for self-legislation? Patrick Riley has described the worry thus: "The core of Kantian morality is a purely internal good will", and "the core of Kantian politics a purely external freedom under general laws", what amounts to an impossible, or at least, difficult, connection between the two.<sup>55</sup>

This problem has been identified by Steven Smith and Robert Paul Wolff,<sup>56</sup> by arguing that the Kantian notion of autonomy can be interpreted as having the effect of delegitimizing all political and social institutions that are not the product of our own free will. For example, for Smith, such an understanding of freedom could grow into "a revolutionary or terroristic morality, that preaches liberation from all contexts or

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<sup>55</sup> Riley, P. (1983) *Kant's Political Philosophy* Rowman & Littlefield Publishers: Totowa. p. 174. Riley directly addresses this worry in his interpretation of Kant's political philosophy. Accordingly, he thinks that the "correct relation" between Kantian politics and Kantian morality is a close relation "by sharing ends", in still keeping the two realms distinct "by not sharing motives". The realm of public justice becomes the mere stage-setting, an enabling condition of ends that are political –that is, moved by selfish interests as the sort we have been describing- "so that moral ends can be realized even in the absence of *motiva moralia*" (*ibid.*) It is Riley's main thesis that politics in Kant serves a higher purpose in his system, as the mere instrument "which make[s] the dignity of men as ends in themselves more nearly possible"(p. 103) I differ from Riley's teleological interpretation of Kantian politics, as it can hopefully be seen from the discussion above. Surely, Kant draws a strict separation between motives and ends in the public sphere, yet the instrumentality Riley's sees in his treatment of politics seems to run contrary to Kant's own conception of the nature and role of the juridical condition. Unfortunately I cannot engage in a direct dialogue with Riley here, as the topic of the relation of Kant's political and moral philosophies goes beyond the scope of this study.

<sup>56</sup> Cf. Smith, S. (1989) *Hegel's Critique of Liberalism: Rights in Context* University of Chicago Press: Chicago; Wolff, R. P (1970) *In Defense of Anarchism* Harper & Row: New York.



situations”, a morality leading to the rejection, as oppressive and dehumanizing, of all institutional arrangements that do not immediately express, from the moral agent’s point of view, man’s essential humanity and dignity.<sup>57</sup>

I believe this to be a crucial challenge, for its obvious connections with Kant’s position against revolutions. Endorsing a notion of freedom that demands from our institutional framework to mirror in its policies, and in the interpretation and applicability of its laws, a conception of humanity and a value for self-rule, could easily be interpreted as a justification for a rebellion, called forward in the name of freedom. This issue emerges with particular urgency since this, in my opinion, misguided understanding of Kant’s notion of autonomy in connection with his politics has served as the basis for arguments in favor of political anarchism.

For example, Wolff takes Kant’s notion of autonomy to insist on the integrity of individual moral judgment over the arbitrary contingencies of positive law. Accordingly, Kant’s concept of autonomy is a matter of duty, of taking responsibility for our actions, and this means that each individual moral agent must figure out for herself what she ought to do. For the autonomous person “there is no such thing, strictly speaking, as a *command*”,<sup>58</sup> and because submission to legal authority involves doing certain things just because the extant legal authority tells you to do them, it seems to follow that we are required, on the basis of Kantian autonomy, to reject legal authority, since “the primary obligation of man is autonomy, *the refusal to be ruled*”. Thus, for Wolff “it would seem that anarchism is the only political doctrine consistent with the virtue of autonomy”.<sup>59</sup>

Although the rhetoric of Wolff’s argument is far distant from the complexity of Kant’s definition of autonomy in his moral philosophy, the point is still pressing for us. This claim for self-rule, and its consequent rejection of external authorities, captures in a succinct manner the tension that emerges if one fails to recognize that, in the context of his *politics*, Kant had defined the problem as a reconciliation between legitimate coercion, or what Wolff calls *de facto* states “whose subjects believe to be

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<sup>57</sup> Smith (1989) p. 79

<sup>58</sup> Wolff (1970) p. 15

<sup>59</sup> *Ibid.*, p. 18

legitimate”,<sup>60</sup> and *co-existent* freedom.<sup>61</sup>

Moreover this conception is deepened by Kant, on the face of his commitment to the inscrutability of the legitimacy of sovereign authority,<sup>62</sup> and the renunciation of the subjects to pass judgement on the ways such authority must be exercised<sup>63</sup>. In Kant’s own words: “The authority that is now here and under which you live *is already in possession of the right legislation*. Though you may indeed publicly discuss and debate this legislation, you cannot set yourselves up as opposing legislators”.<sup>64</sup> I will argue for these claims in Chapter 2, but I think these suggestions can already be inferred from what we have been discussing thus far.

I find that this apparent tension between Kant’s politics and a claim for self-determination, helps to explain the source of dissatisfaction that revolves around Kant’s critique of revolution.<sup>65</sup> Once we read this critique in the light of his understanding of order and freedom within the political context, we are in a better position to scrutinize Kant’s arguments.

This, whoever, was not the route transited by the radical Kantians mentioned in the Introduction. As Yack has argued, Kant’s dichotomy between natural necessity and freedom as autonomy has rendered “man a solitary”,<sup>66</sup> an alienated being from the external world, since he does not find in his natural and social interactions anything that mirrors his inward dignity. The paradoxical character of this interpretation endures in present scholarship. While it is true, as already pointed out, that Kant assumes that “the principles of right have an objective reality, i.e. that they can be applied in practice”, he acknowledges that the conflict between politics and

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<sup>60</sup> Wolff (1970) p. 10

<sup>61</sup> It is not my intention here to evaluate the plausibility of Wolff’s argument for the connections between Kant’s notion of autonomy and political anarchism. I have appealed to Wolff in order to show the *type* of arguments that can result from reading Kant’s moral philosophy together with his political philosophy, without drawing the necessary differences that exist between them, which, I think, is the source of a common mistake.

<sup>62</sup> Cf. *Doctrine of Right*, General Remarks A, 318

<sup>63</sup> Cf. *Theory and Practice*, p. 81

<sup>64</sup> *Doctrine of Right*, Appendix, 372

<sup>65</sup> We find a parallel problem in Hobbes, as noted by Strauss, in the former’s commitment to the power of the fear of death: “By granting this, Hobbes in fact admitted that there exists an insoluble conflict between the rights of the government and the natural right of the individual to self-preservation” Cf. Strauss, L. (1965) *Natural Right and History*. The University of Chicago Press: Chicago, p. 197. This conflict becomes the central argument of Sreedhar’s (2010) interpretation in favor of a Hobbesian right of rebellion, based on the individual right for self-preservation. I will argue that one cannot find an equivalent of this in Kant. See Chapter II, sec ‘The argument from happiness and needs’ of this study.

<sup>66</sup> Cf. Yack, B (1992) pp. 99-100

morality “in a *subjective* sense...will and ought to remain active, since it serves as a whetstone of virtue”.<sup>67</sup>

#### ***1. 4 Order and freedom: Kant’s solution to the problem of politics.***

In the context of Kant’s political philosophy, agency is understood in its strict external character, a sphere in which we recognize others not as good willed neighbors, but as an individual with equivalent claims of right, an idea that involves the recognition of limits. In other words, this “act of recognition” between agents as political persons,<sup>68</sup> in Gary Herbert’s proto-Hegelian wording, makes manifest that for Kant, the establishment of a sphere for “civil security”, in the form of a juridical condition where public law delineates the limits of the freedom of each in respect to the whole, is the essential *pre*-condition for our moral capacities to be exercised and not the other way round.

If these suggestions are correct, we are in a better position to understand Kant’s definition of revolution as “the greatest and most punishable crime in a commonwealth”,<sup>69</sup> in that it destroys the very conditions that enable us to develop more stable political institutions, and it is in the utmost way wrong by subverting the efforts towards a *possible* reconciliation between order and freedom.

That this seems to be closer to Kant’s own thought has been the main focus of this chapter, in showing that Kant has a reasonable confidence in the possibility of co-existent freedom within the framework of juridical and political order. This, Kant thinks, is better manifested in the internal and external relations of states where “the citizen’s inclinations to do violence to one another is *counteracted* by a more powerful force –that of the government”, a situation that “genuinely makes it much easier for the moral capacities of men to develop into an immediate respect for right”.<sup>70</sup>

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<sup>67</sup> *Perpetual Peace*, pp. 125; 124

<sup>68</sup> Herbert, G. (1995) ‘Immanuel Kant: Punishment and the Political Preconditions of Moral Existence’ *Interpretation* 23, pp. 65-66

<sup>69</sup> *Theory and Practice*, p. 81

<sup>70</sup> *Perpetual Peace*, p. 121n, my emphasis. It is in the context of these revealing passages where Kant assumes a reasonable optimism on the process of establishing a political constitution as a “great step taken *towards* morality”; yet this is still “not the same as a moral step”.

I should mention at this point that Kant's appeal to institutional authority and positive law is not aimed at a solution to a deficient picture of human nature. As I have argued, this picture does accompany Kant's arguments as a methodological premise throughout his political writings. However, the way he conceives the sphere of "civil security", namely as the fragile achievement of our duty to establish a state, demanded for Kant also a solution to conflicting judgments in matters of justice, in order to guarantee the necessary continuity of the juridical condition. Both the tendency to misuse our freedom, as well as the conflict between private judgments, had to be contained under the legality of coercion.

In this context, it could be argued that an alleged right of rebellion and all forms of revolution involve for Kant raising a question relating to the indisputable content of public law, and to the legitimacy of origin of whomever holds the means of coercion. Recall that Kant is explicit on this point when he says that:

The origin of the supreme authority is, from the practical point of view, not open to scrutiny by the people who are subject to it; the subject should not be overly curious about its origin as though the right of obedience due it were open to doubt.<sup>71</sup>

In addition to Kant's recognition of an inscrutable dimension of order as power, i.e. order in the broader sense, an individual who calls into question "the moral basis of a ruler's legitimacy" fails to notice, according to Waldron, that for Kant what truly matters "is that there *be* a civil society and that we be subject to it as soon as people start entering into conflict about the practical application of principles of justice and right".<sup>72</sup> Thus, the elimination of conflicting judgments on what is right and what is just, in addition to the inherent conflict of our antagonistic tendencies and interests, justified for Kant an appeal to a *political* solution, based on the "irreproachable", and "irresistible"<sup>73</sup> authority of the extant powers, who have in their hands the legitimate use and enforcement of coercion, and in the univocal voice of positive law in settling controversies of right (*ius controversum*).<sup>74</sup>

These arguments have, I think rightly, been identified by interpreters such as Vlachos, Philonenko, and Waldron,<sup>75</sup> as an expression of the authoritarian character

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<sup>71</sup> *Doctrine of Right*, General Remarks A

<sup>72</sup> Waldron, J. (1996) 'Kant's Legal Positivism' *Harvard Law Review*, Vol. 109, No. 7, pp. 1563-1564

<sup>73</sup> *Doctrine of Right* §46, 316

<sup>74</sup> *Ibid.*, §43, 312

<sup>75</sup> Cf. Waldron (1996); Vlachos, G. (1962) *La Pensée Politique de Kant*. Presses Universitaires de

of Kant's solution to the problem of politics. I believe that defining Kant's political philosophy in these terms is not a vacuous naming; rather it brings to the fore Kant's particular position on the role of authority, his mistrust of the masses, and his warnings against revolutions as unleashing conflict and interrupting the continuity of the juridical condition. In the context of a discussion on the benefits of Enlightenment, Kant makes it clear that collective action, of the kind promoted by the revolutionaries, if it does not respond to a change of mind is not positive evolution but an open door to despotism:

Thus a public can only achieve enlightenment slowly. A revolution may well put an end to autocratic despotism and to rapacious or power-seeking oppression, but it will never produce a true reform in ways of thinking. Instead, new prejudices, like the ones they replaced, will serve as a leash to control the great unthinking mass.<sup>76</sup>

In following this line of thought, Vlachos argues that in Kant, we see a displacement from purely *normative* justifications of the state to what he calls an "existential" justification of order, concluding that: "The legitimacy of the positive (existing) order of laws resides...in its existential truth and in the fusion of right and power."<sup>77</sup> As the guarantor of order, the sovereign power acquires for Kant an almost Hobbesian quality, for it embodies "the preservation of the state constitution", which is "the highest law of a civil society as such".<sup>78</sup> In this context, Vlachos comes very close to what I think is a key point at the core of Kant's critique of revolution, namely, his commitment to the claim that: "All established power, because of the fact that it actually exists, disposes of a certain *a priori* legitimacy"<sup>79</sup> that cannot be contested, and least of all outstripped through violent means.

The demand for the priority of positive law, represented and enacted through the sovereign's inscrutable authority, paves the way for Kant's ultimate resolution of the problem of politics in the *Doctrine of Right*. This work, as we know, bears already the imprint of the French Revolution on it, but contrary to the expectations of his

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France: Paris; Philonenko, A. (1968) *Théorie et Praxis dans le pensée morale et politique de Kant et de Fichte en 1793*. Librairie Philosophique J. Vrin: Paris.

<sup>76</sup> *What is Enlightenment?*, p. 55

<sup>77</sup> Vlachos, G. (1962) *La Pensée Politique de Kant*. Presses Universitaires de France: Paris, p. 532. This is a complex and very interesting point, which seems to show a deep awareness on Kant's part regarding the irrational factors that play a part in politics and the exercise of power. Much as I would like to discuss it now, a fair analysis of such a claim would take me too far from my central subject, and therefore will not be dealt with in more detail here.

<sup>78</sup> Kant, I. (2006) *Anthropology from a Pragmatic Point of View* Cambridge University Press: Cambridge, p. 236

<sup>79</sup> Vlachos (1962) p. 524

revolutionary followers, Kant did not “revise” his theories in accordance to his progressive audience,<sup>80</sup> but presented his most clear approbation in favor of state authority,<sup>81</sup> a limited conception of citizenship,<sup>82</sup> a minimal space for participatory politics,<sup>83</sup> a strident doctrine of punishment<sup>84</sup>, and an unequivocal repudiation of revolution and rebellion.<sup>85</sup> The disappointment is still felt in more recent commentators, who find the substance of this position as “unworthy of [Kant’s] own better thinking”.<sup>86</sup>

### ***1.5 Revolution: a political problem.***

To be sure, Kant’s views are controversial. However, in dealing with his political writings, I have found as a welcome aspect the consistency of his views and the persistence of his basic commitments. This consistency is markedly revealed in his views on revolution. In overlooking the background from which this critique springs, we easily lose sight of the fact that, for Kant, revolution is a *political* problem to the extent that it involves a suspension of the conditions for the reconciliation between order and freedom, thus introducing a vacuum of right and interrupting the continuity of legality and peace.

Recapitulating some points previously made: firstly, Kant’s political philosophy works under the conviction that the task of establishing a state, for the protection of “civil security”, must not be made to depend on the moral improvement of mankind; secondly, this task is done with the aid of a methodological premise on the negative aspects of human nature, and a mistrust on the collective agency of “the great unthinking mass” who can only “achieve enlightenment slowly”<sup>87</sup>; thirdly, Kant’s understanding of the notion of order demands a repudiation of revolution as radical political change, which “will never produce a true reform in ways of thinking”<sup>88</sup>; and finally, the solution to the problem posed by politics prefigures an

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<sup>80</sup> Cf. Malik, R. (2012) ‘Revolutionary Epigones: Kant and his Radical Followers’ *History of Political Thought*, Vol. XXXIII, No. 4, pp. 664-665

<sup>81</sup> *Doctrine of Right* §48, 317

<sup>82</sup> *Ibid.*, §47, 314-315

<sup>83</sup> *Ibid.*, §48, 317; 320

<sup>84</sup> *Ibid.*, General Remarks E

<sup>85</sup> Cf. *Doctrine of Right*, Appendix 372; General Remarks A; 353; 355.

<sup>86</sup> Riley, P. (1983) *Kant’s Political Philosophy* Rowman & Littlefield Publishers: Totowa, p. 177

<sup>87</sup> *What is Enlightenment?*, p. 55

<sup>88</sup> *Ibid.*, p. 55

authoritarian response, as the one we find in the main arguments of the *Doctrine of Right*.

These claims elaborate the thesis I have been defending so far: even before the French Revolution, Kant had already articulated the basic tenets of his position against radical political change, and also against a moralizing conception of politics, by understanding freedom in its strict external character, i.e. as co-existing freedom, and appealing to an institutional authority to trace and safeguard the limits of freedom. After the events of 1789 these tenets were not revised by Kant, as his revolutionary followers expected, but were rather reinforced.

### ***1. 6 The Disappointment of the Left-Kantians: Kant and the French Revolution.***

It could be rightly said with Ernst Bloch, that whilst the French *felt* the notion of freedom, the Germans had to *conceptualize* it. That seemed to be the case with the ways in which the effects of the French Revolution were received by Kant and the post-Kantians. However, contrary to his followers, for Kant the idea of individual freedom flagged by the revolution “could never be set to work empirically, and that was its special excellence”<sup>89</sup> The question of how to read Kant’s position on revolution, and more specifically, on the French Revolution, has haunted his readers up to the present. I will close this first chapter by arguing that one has two possible routes of interpretation: on the one hand, to think that there is a genuine puzzle to be solved between Kant’s conclusive position against revolution in his writings, and the Kantian-inspired ideals of moral freedom and political self-rule allegedly embodied by the French Revolution; or, on the other hand, to try to discover the nature of Kant’s critique of revolution, such that the above puzzlement loses its force, which is the route I am to transit in the present study.

The first of these routes was the one chosen by the “left Kantians”, in their attempt to show that Kant’s philosophy of freedom, in its call for self-rule and rational criticism, was the theory most naturally fitted to the revolutionary motivations of the events in France. The voices of Kant’s radical followers joined to sing Schiller’s verses which say: “To set the law upon the throne, to honour man at last as an end in

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<sup>89</sup> Bloch, E. (1987) ‘Kant’s and Fichte’s Natural Law without Nature: the A Priori Law of Reason’ in *Natural Law and Human Dignity* The MIT Press: Cambridge, p. 66

himself and to make true freedom the principle of political bond”.<sup>90</sup> Those were the directions about whose outcome Kant had persistently warned.

This position did not seem to represent a puzzle for those who, like Fichte, to Schiller, to Hegel, as Yack argues: “[T]he Revolution appears more ‘Kantian’ than Kant’s own” reading of it.<sup>91</sup> According to their interpretation the realization of moral freedom was at “stake in the fate of the Revolution”<sup>92</sup> It is interesting to see the ramifications of these thoughts in the wider context of the Enlightenment era. As Sebastian Gardner argues, the radical strands of post-Kantian thought, which can be traced back to Spinoza, derived a lesson from Kant’s original insights into the nature of freedom as autonomy, “irrespective of [Kant’s] political limitations, with which the former might or might not be thought to be connected”. For the post-Kantians, the agenda was then to affirm freedom of “a kind that can be thought to flow down to the empirically real, historically concrete human subject”.<sup>93</sup>

As I argue in the next chapter, I think that Kant understood that the radical conclusions of the sort Yack and Gardner tackle in the immediate post-Kantian period, were based on a participatory vision of politics, fostered in notions of popular sovereignty inspired by Rousseau. It is this picture, I will contend, that Kant’s critique of revolution was meant to oppose.

It is significant to find that several of the arguments raised by the left-Kantians in the midst of the events in France, still resonate in current Kantian scholarship. One readily finds in the interpretations of, to list just two, L. W Beck and Kenneth Westphal,<sup>94</sup> a revival of the initial puzzle between Kant’s strict views on political authority and moral freedom. For Westphal, for example, the tension is expressed in terms of a clash between “Kant’s conception of persons as ends who autonomously legislate for themselves”, and his “Hobbesian rejection of the right of revolution”.<sup>95</sup> Any possible solution to this problem would have to read into Kant’s political and

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<sup>90</sup> Schiller, F. *Aesthetic Education* in Yack (1992) p. 113-114

<sup>91</sup> *Ibid.*, p. 116

<sup>92</sup> *Ibid.*, p. 112

<sup>93</sup> Cf. Gardner, S. (2014) ‘Spinoza, Enlightenment, and Classical German Philosophy’, *Diametros* 40, p. 32

<sup>94</sup> Cf. Westphal, K. (1992) ‘Kant on the State, Law, and Obedience to the Authority in the Alleged ‘Anti-Revolutionary’ Writings’ *Journal of Philosophical Research* no. 17; L.W. Beck (2002) *Selected Essays on Kant*. Ed. Hoke Robinson. University of Rochester Press: Rochester.

<sup>95</sup> Westphal (1992) p. 202



legal theory the possibility of “broader grounds of obligation”, that allow us to make obedience conditional “on the moral purposes served by membership in the state”<sup>96</sup> Similarly, L. W Beck formulated the problem as an inconsistency between, on the one hand, Kant’s “teleology of seeking to bring about the rule of law...(which may, in fact require not merely efforts at reform but *actual violence*)”, and on the other hand, a “formalism of obedience to the powers that be”.<sup>97</sup>

Moreover, Beck acknowledges that Kant’s solution to this tension is flawed, thus suggesting that an answer for it must be looked for in the potential of Kant’s teleology, as addressed by Hegel. We see how close in spirit, as well as in letter, these interpretations are to those who responded to Kant’s political views. For Beck, the conclusion we must keep from Kant lies in “the historical demand which *abrogates static laws and institutions when they fall significantly below the level of moral aspiration*”.<sup>98</sup>

It is not my intention here to address the specific difficulties of these interpretations. What I want to show is the striking continuity that permeates these contemporary readings of Kant’s political philosophy with the initial reaction of his more radical followers. Their respective accounts emphasize some aspects of Kant’s moral philosophy and of his philosophy of history, ignoring or underestimating the political content of his critique of revolution. However, even if we grant Kant’s enthusiastic assessment of the French Revolution as a mark of moral progress in the human race, one can easily be misled if these remarks are not read in conjunction with Kant’s immediate clarifications; there he goes on to say that this event “may be so filled with misery and atrocities that no right-thinking man would ever decide to make the same experiment again at such a price”, and that “true enthusiasm is always directed exclusively towards the *ideal*”,<sup>99</sup> something rather different from the historical event in question.

Throughout this study I have found that in the context of Kant’s political thought, the substance of these passages in the *Contest of the Faculties* is far less illuminating and philosophically rich than the content one uncovers in his critique of

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<sup>96</sup> *Ibid.*, pp. 5-6

<sup>97</sup> Beck (2002) p. 80, my emphasis.

<sup>98</sup> *Ibid.*, p. 80, my emphasis.

<sup>99</sup> Cf. *Contest of the Faculties*, pp. 182-183

revolution, disseminated throughout his work. I have thus taken a different route to deal with these issues, by offering a detailed analysis of the nature of Kant's critique of revolution. I depart from the intentions that furnished the agenda of both the left-Kantians, as described by Yack, as well as the disappointed Kantians as pictured in the Introduction, and represented among others by L. W. Beck and K. Westphal. That there exist tensions between Kant's notion of freedom as autonomy and his stance in favor of political authority is undeniable. Yet my purpose is to show that this was *not* a puzzle *for Kant*, as he conceived the reconciliation of order and freedom in a different way from the one expected, or wished for, by his radical and disappointed followers.

Taken together, these claims fashion what I take to be the background of Kant's Hobbesian critique of revolution, as well as the most adequate way to render it consistent with Kant's conception of the problem of politics. That this reconciliation *demand*s a repudiation of revolution, and that Kant acknowledges this by offering a critique based on his Hobbesian commitments, will be the focus of the following chapter.

## **Chapter II: Kant's Critique of Revolution**

In this Chapter, I reconstruct and interpret Kant's arguments against revolution. My discussion aims at providing a careful examination of the nature and scope of Kant's critique of revolution and his anti-rebellion stance, and to show that this critique is more elaborated and provocative than has commonly been

suggested.<sup>100</sup> A closer look into Kant's diagnosis of revolution reveals that he engaged with it as a distinct and clearly detectable *political* problem, namely, that of the dangers of radical political change to the stability and continuity of the juridical condition. I proceed by presenting Kant's Hobbesian commitments, which I argue lie at the basis of his critique. Finally, I contend that the Hobbesian undercurrents of Kant's views on revolution allow us to interpret his arguments as a coherent whole. I conclude that Kant's critique of revolution is essentially a response to the problem of politics as the reconciliation of order and freedom argued for in Chapter 1. Taken together, then, these two chapters provide the substance of my argument for the existence and consistency of a critique of revolution in Kant's political philosophy.

## **2. 1 Revolution: definition of an extreme case.**

What is revolution for Kant, and why is it a problem?

The closer we get to a strict definition of revolution appears in §52 of the *Doctrine of Right*, where Kant says: “[R]evolution under an already existing constitution means the destruction of all relationships governed by civil right, and thus of right altogether. And this is not a change but a dissolution of the civil constitution.”<sup>101</sup>

Back in *Theory and Practice* we read that the procedures followed by the political revolutionaries, if made into a maxim, “make all lawful constitutions insecure and produce a state of complete lawlessness (*status naturalis*) where all rights cease to be effectual”. This lawless state is equated by Kant with a “state of anarchy”, since the existing constitution has been destroyed and a new one has still to be established.<sup>102</sup> Finally, the definition is made more precise when Kant concludes that the essential mark of this event is the “*violent* overthrow” of a previously existing

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<sup>100</sup> This is explained, in part, by a frequent tendency in the literature to concentrate on Kant's specific arguments against rebellion, rather than on his more comprehensive arguments against revolution as the radical, and wholesale destruction of the juridical condition. Indeed, I take some parts of Kant's arguments against rebellion to suffer from conceptual weaknesses, and on occasions find their exalted legalism lacking any genuine appeal. Kant's anti-rebellion arguments have been described by Commay (2011) as a “chaotic attack on revolution” based on “formal tautologies”, which in Beck's (2002) words are nothing but “boring obviousness”. Cf. Commay, R. (2011) *Mourning Sickness*. Stanford University Press: Stanford, p. 37; L. W Beck (2002) *Selected Essays on Kant*. Hoke Robinson Ed. University of Rochester Press: Rochester, p.75

<sup>101</sup> *Metaphysics of Morals* in *Kant's Political Writings*, H. B. Nisbet trans., p. 162.

<sup>102</sup> *Theory and Practice*, pp. 82-83n

government, thus taking the people back “to an intervening moment when the entire juridical state of affairs would be annihilated”.<sup>103</sup>

With these definitions in hand, I take Kant’s conception of revolution as *radical* political change to be based on three claims: first, revolutions are radical in the sense that they destroy the effectiveness of the fabric of external relations based on legal claims of right. Second, revolutions are radical to the extent that they bring about a complete new situation by dissolving the previous constitution. And thirdly, revolutions put a radical stop to the continuity and stability of the civil condition, resulting in an interval of anarchy.

It is important to make a distinction here between Kant’s critique of revolution, on one side, and his denial of a right of rebellion on the other side. To be sure, the two points are connected, but they are not the same. Kant’s repudiation of revolution is what leads him to condemn other political methods such as rebellion, sedition, subversion, and conspiracy<sup>104</sup> that may open the way to revolution as radical political change. Thus I will consider Kant’s specific arguments against rebellion in connection with the general definition of revolution.

Before we embark on discussing Kant’s arguments for these definitions, I want to clarify some points. As I read the issue, Kant’s critique of revolution is not a mere diagnosis of why revolutions are wrong either legally, or morally, nor a condemnation of a historical event, which, he insists should never repeat itself.<sup>105</sup> Revolution is a comprehensive problem to the extent that it *tells us* something about, or makes explicit, the features of the complex mechanisms of the social order, and the difficulty of reconciling order and freedom in the context of politics.

The impact of the French Revolution in Kant and his contemporaries is well known, and it is reason enough to speculate about its influence on their philosophical and political concerns. In Kant’s particular case, his political writings show plenty of

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<sup>103</sup> *Doctrine of Right* §62, 355

<sup>104</sup> Kant speaks specifically about “revolutionary conspiracy” in §52 of the *Doctrine of Right*, and in *Perpetual Peace*, p. 118. I think that the idea of conspiracy is implied, at least implicitly, in Kant’s discussion of “secret societies” in *Theory and Practice*, and the importance that the state allows for a reasonable space for publicity and freedom of the pen, such that these societies would “disappear if freedom of this kind was encouraged.” Thus Kant drew a connection between secrecy and activities that could not, if made public, be in harmony with right. (Cf. *Theory and Practice*, pp. 85-86)

<sup>105</sup> Cf. *Contest of the Faculties*, p. 182.

evidence that this event represented a persistent concern, which is found in the extensive discussions dedicated to revolution in his work from 1793 to 1798. What is most interesting, however, is the way in which this issue takes preeminence in Kant as a pivotal point of convergence of the most basic commitments of his political thought.

Kant carried out his views on revolution in the midst of a variety of discussions; therefore, in order to trace a concrete definition of the problem and its corollaries, one has to carry out a fair amount of reconstruction. In doing this, I find that Kant did not offer a straightforward analysis of the *causes* that provoke a revolution, but rather the substance of his critique lies in what he took to be the *consequences* and the *outcomes* this phenomenon bears for the continuity of the juridical condition, the destruction of the limits of freedom, and the stability of civil security.

I understand Kant's critique of revolution as being two-fold: on the one hand, it is a negative critique of popular conceptions of sovereignty that favor radical change and collective action; and on the other hand, it embodies a positive call for the preservation, continuity, and security of the basic form of government, favoring progressive improvements through state reforms and the popular enlightenment of the people.

Another way to express the importance this problem had for Kant is by means of Leo Strauss's definition of the "extreme case".<sup>106</sup> According to Strauss, political doctrines like those of Machiavelli and Hobbes, depart from a commitment to an experience that "is more revealing of the roots of civil society and therefore of its true character than is the normal case", showing what holds good in "emergency situations".<sup>107</sup> In my view, this is a fruitful way of understanding the way Kant approaches the issue of revolution, and explains why he paid close attention to it.

As an "extreme case" in the Straussian sense, Kant read revolutions as the dissolution of the political and juridical fabric, but not because it is *extreme* this event becomes less expected or improbable. On the contrary, we should understand here

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<sup>106</sup> Strauss, L. (1953) *Natural Right and History* The University of Chicago Press: Chicago, pp. 179; 196; Cf. Hobbes, *Leviathan* 13, 61-63; *De Cive* I, 1-2

<sup>107</sup> Strauss, L. (1953) *Natural Right and History* The University of Chicago Press: Chicago, pp. 179; 196

“extreme” in the sense that revolutions represent a clear instantiation of a case where the ultimate foundations of statehood, and the mechanisms that hold together the civil condition more broadly, are radically suspended. To be even more specific, we are able to take revolutions as an extreme case in two senses: in a positive sense, this case enables us to theorize, from the perspective of our philosophical commitments, the conception and role we assign to the state and to the individuals that are subject to it; and in a negative sense, taking revolution as a phenomena worth examining allows us to analyze the consequences this event might have for the civil condition, in the likelihood of its occurrence. I have found that these methodological approaches are shared by Kant and Hobbes.

## ***2.2 The Hobbesian commitments:***

Kant’s arguments against revolution as an “extreme case” are in my view very close to Hobbes’s. I have found a remarkable similarity in the conclusions that both Kant and Hobbes derived from this problem, as well as in the commitments that drive their respective outlooks on the issue of revolution.

Thus, Kant’s views on revolution are largely shaped by what I call Kant’s ‘Hobbesian commitments’. However, this does not mean that Kant is committed to Hobbes’s absolutist remedy to the problem of political obedience, nor to a conception of the state as the one envisaged by Hobbes in *De Cive* and *Leviathan*. What is *Hobbesian* about the *Kantian* critique of revolution is the affinity in their commitments to: first, a negative anthropology, based on a pessimistic assessment of the intentions and dispositions of human nature in the political sphere. Second, Hobbes and Kant share a similar perception concerning the fragility of order in the narrow and broad sense described in Chapter 1. For these philosophers, the stability and continuity of the civil condition take priority, for it is through this stability that civil security is possible. Third, they also share a commitment to a view favoring the alienation of sovereignty in the extant authorities, in contradistinction to popular conceptions of sovereign power. The immediate corollary of this claim implies a transfer of the subject’s judgment on *how* power should be exercised by the sovereign in question. Fourthly, there is a crucial point of contact in that both Kant and Hobbes emphasize the importance of popular enlightenment as a means for the consolidation of the civil condition, the progressive eradication of seditious and revolutionary ideas,

and, particularly for Kant, for the development of a responsible public use of reason. Finally, I think it can reasonably be argued that Kant shares with Hobbes a view on the significance of the “extreme case” in politics.<sup>108</sup> In Hobbes, for example, the experience of the extreme case is that of civil war in the state of nature, whereas in Kant revolution becomes a particularly illuminating instance of such extreme case. To be precise, the way Kant frames his arguments against revolution makes it an instance which reveals that when “the social fabric has dissolved”,<sup>109</sup> it emerges more clearly that the civil condition is fragile, and needs to be kept protected within the boundaries of order.

There is an advantage in reading Kant in conjunction with Hobbes, for it enables us to see more clearly the grounds for his specific arguments against revolution. Throughout the discussion, I will not defend the aforementioned commitments one by one; I am presupposing them as methodological premises for my interpretation of Kant’s general critique of revolution. I hope that the substance of Kant’s Hobbesian commitments manifests itself in the content and the spirit of the arguments themselves. My aim is thus to formalize these commitments into a set of arguments that Kant presents, in a fairly scattered manner, throughout his work.

## ***2.3 The arguments:***

### ***2.3.1 The argument from anarchy:***

I think that there is a key assumption underlying Kant’s critique of revolution. Understood as radical political change, revolution incorporates a new condition to Kant’s political horizon: a state of anarchy. This state must be differentiated from the state of nature since, for Kant, a state of nature is one in which right claims remain *provisional*<sup>110</sup>, in the absence of an arbiter to sanction controversies in the form of a

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<sup>108</sup> Strauss, L. (1953) *Natural Right and History* The University of Chicago Press: Chicago, p. 196

<sup>109</sup> *Ibid.*, p. 196

<sup>110</sup> Cf. *Doctrine of Right* §43, 313

Law. This state is a society, yet one where “justice is absent (*status iustitiae vacuus*)”.<sup>111</sup>

Interestingly, Kant does not appeal to the idea of a state of anarchy as a hypothetical device –in the manner of some strands in social contract theories-, but rather understands it as an inevitable consequence of his views on revolution. This condition is one in which there is a vacuum of right, but more importantly, it is a condition of *injustice* due to its origins in violence, thus reintroducing the insecurity proper of the state of nature, with the caveat of political uncertainty and a latent state of war.

Perhaps the most precise formulation of this thought can be elicited from what seems to be a direct reference to the Terror of the French Revolution. In a note to *Theory and Practice*, Kant states that, when the existing constitution has been destroyed by the people, a new commonwealth “still has to be organized”. In that interval of time, which is Kant’s major concern:

The state of anarchy supervenes, with all the terror it may bring with it...The wrong which is thereby done is done by each fraction of the people to the others, as is clear from the case where the rebellious subjects ended up by trying to thrust upon each other a constitution which would have been far more oppressive than the one abandoned.<sup>112</sup>

Here Kant draws a direct link between revolutionary upheaval and anarchy, which in my opinion bears witness to his commitment to an essentially pessimistic conception of human beings, in their tendency to abuse their freedom and the effects this has on the social fabric. However, this permanent struggle, which was solely latent in the state of nature, becomes manifest in an extreme fashion in the state of anarchy. For this reason, I think there is a solid case to be made for an intimate connection between Kant’s state of anarchy as the result of revolutions, and Hobbes’s picture of a state of nature as the war of all against all.<sup>113</sup> Moreover, Kant shares with Hobbes that “experience teaches us that human beings live in violence and are prone to fight one another before the advent of external compulsive legislation”<sup>114</sup>, as well

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<sup>111</sup> *Ibid.*, §43, 313

<sup>112</sup> *Theory and Practice*, p. 83n

<sup>113</sup> Hobbes, *De Cive* I, 2

<sup>114</sup> *Doctrine of Right* §44 312



as the view according to which those hostilities need not be *actual*, as in Hobbes's war of wolves, to make lawful coercion necessary.

However, Kant's notion of the state of nature is not exempt from ambiguities. He sometimes refers to it as, precisely, "a state of war", for "even if it does not involve actual hostilities, it involves *a constant threat of them breaking out*. Thus the state of peace must be formally instituted, for a suspension of hostilities is not in itself a guarantee of peace."<sup>115</sup> In the same fashion, Hobbes says that: "[T]he nature of War, consisteth not in actuall fighting; but in the known disposition thereto, during all the time there is no assurance to the contrary. All other time is PEACE".<sup>116</sup>

What is noticeable in these remarks is that Kant recognizes that the situation in which the revolutionaries find themselves in, once they have overthrown the constitution, is marked by uncertainty and permanent risk war. What I think Kant is trying to emphasize is the relapse into a condition which society at large has made so many efforts to abandon. Following the thread of this suggestion, Kant is closer to Pufendorf's description of the inimical state of uncertainty –and thus, of anarchy–, that individuals find themselves in the absence of a juridical state. In *On the Duty of Man* (1663), Pufendorf says:

[W]e have to regard any man who is not our fellow-citizen, or whom we live in a state of nature, not indeed as our enemy, but as a friend we cannot wholly rely on....Hence in the natural state there is a lively and all but perpetual play of suspicion, distrust, eagerness to subvert the strength of others.<sup>117</sup>

That kind of anarchy is a clear and possible state of affairs in Kant's political philosophy, and is further confirmed in the following statement: "For any *legal* constitution, even if it is only in small measure *lawful*, it is better that none at all, and the fate of a premature reform would be anarchy".<sup>118</sup> This is a highly revealing passage that conveys at least two basic Kantian premises: a separation between legality and justness on the one side, and an unequivocal connection between radical modes of political change, be these premature reforms on the part of politicians, or radical violence on the part of the revolutionaries, with the coming about of a state of anarchy. From these premises we can readily draw a further conclusion, namely that

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<sup>115</sup> *Perpetual Peace*, p. 98

<sup>116</sup> Hobbes, *Leviathan* 13, 62

<sup>117</sup> Pufendorf, S. (1991) *On the Duty of Man and Citizen According to Natural Law*. Cambridge University Press: Cambridge, pp. 118-119

<sup>118</sup> *Perpetual Peace*, p. 118n

the minimal or questionable sense of justice of current constitutions, should never serve as a reason to challenge the status of their legality and their effectiveness.

However, it is equally notable that the status of the claim according to which Kant sees anarchy as the “fate” of *all* revolutions is harder to establish. We could read this as a consequence of Kant’s general conservatism in politics, marked by an unwillingness to risk the known for the unknown. Yet in my view, this responds to a deeper commitment to slow reform in the place of radical attempts for political progress. Surely, the reader could be dissatisfied with the general tenor of Kant’s position here, but this does not render it less consistent; as Kersting has rightly argued: “Progressive violence is unthinkable for Kant”.<sup>119</sup>

The spirit of these remarks seems to be very close to Edmund Burke’s cautious defense of reform in the face of the uncertainty of anarchy:

It is thus with all those, who, attending only to the shell and husk of history, think they are waging war with intolerance, pride and cruelty, whilst, under colour of abhorring the ill principles of antiquated parties, they are authorizing and feeding the same odious vices in different fractions, and perhaps in worse.<sup>120</sup>

Kant is somewhat disingenuous when he attempts to prohibit revolution on the grounds that such an action would diametrically go against the “a priori in the Idea of a political constitution in general”<sup>121</sup> as a concept of practical reason. However, it is my suggestion that if we support his formal arguments with the novelty of his remarks on anarchy, and with Kant’s commitment to the preservation of order, we are better able to grasp the depth of his critique.

### **2.3.2 *The argument from preservation:***

In order to solve the difficult task of setting up a state, Kant reminds us that transit from a state of nature into a juridical condition demands more than prudential political wisdom, or a suspension of hostilities.<sup>122</sup> In this sense, Kant develops a conception of the juridical condition as a state of peace, that is highly vulnerable both

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<sup>119</sup> Kersting, W. (1992) ‘Politics, Freedom, and Order: Kant’s Political Philosophy’ in *The Cambridge Companion to Kant*, ed. Paul Guyer, Cambridge University Press: Cambridge, p. 360

<sup>120</sup> Burke, E. (2006) *Reflections on the Revolution in France* Dover Publications: New York, p. 143

<sup>121</sup> *Doctrine of Right*, Appendix 372

<sup>122</sup> Cf. *Perpetual Peace*, p. 122; *Ideas*, p. 49

to internal and external threats, or in his words: “The state of peace must be formally instituted, for a suspension of hostilities is not in itself a guarantee of peace”,<sup>123</sup> such that the head of the state is required “to maintain [the commonwealth’s] strength and stability both internally and against external enemies”.<sup>124</sup>

On the basis of this general conception, Kant acknowledges that the formal institution of the reconciliation between order and freedom makes necessary the subsequent preservation of this condition, as well as its protection. Thus the political problem for Kant, as I interpret it, is strikingly similar to that of Hobbes, for whom: “Man vegetates in continual oscillation between the pursuit of power and the desire for peace; no human being can escape this movement, and raging with it is war.”<sup>125</sup> According to Reinhart Koselleck, the real moral-philosophical problem becomes that “peace is indeed desired as the highest good, but that as a mere wish it does not suffice to guarantee lasting peace”.<sup>126</sup>

At its barest bones, preservation is the antithesis of revolution, so one of Kant’s arguments against revolution springs from a basic commitment to the idea that the juridical condition must be subsumed under what Kersting calls “the law of continuity (*lex continui*)”, where “the preservation of continuity is the presupposition in any advance of right and justice”.<sup>127</sup>

On this account, Kant’s commitment to the importance of preserving the civil condition is based on two claims: on the one hand, the necessary mark of violence in all revolutions runs contrary to the republican constitution, the only one “incapable of bellicosity”; on the other hand, the incessant tendency of individuals to isolate themselves, and to encounter yet again “the unsocial characteristic of wanting to direct everything in accordance with his own ideas”.<sup>128</sup>

Moreover, the internal and external threats I mentioned above are directly pointed out by Kant, when he warns that such a republican constitution “cannot itself be achieved by furious struggles –for civil and foreign wars will destroy whatever

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<sup>123</sup> *Perpetual Peace*, p. 98

<sup>124</sup> *Theory and Practice*, p. 80

<sup>125</sup> Hobbes, *De Cive*, III, 3

<sup>126</sup> Koselleck, R. (1988) *Critique and Crisis* The MIT Press: Cambridge MA p. 25

<sup>127</sup> Kersting (1992) p. 360

<sup>128</sup> *Ideas*, p. 44; *Contest of the Faculties*, p. 184

*statutory* order has hitherto prevailed”.<sup>129</sup> So, there seem to be two options for Kant: preserving what we have, or resorting back into what, with laborious hardship, we tried to leave behind. In other words, maintaining our current, flawed constitutions with all their limitations, in the hope of progressive emendations, or a *violent* return to a state of nature, here understood as the Kantian state of anarchy.

In my view, Kant seems to be working on the presupposition that the tensions and antagonisms found in the state of nature *remain*, in the form of a threat, in the context of the civil condition.<sup>130</sup> This claim is plausible given Kant’s insistence that the suspension of hostilities, in addition to our tendency to misuse our freedom, are not wholly eradicated in the civil condition, but tamed and controlled by means of coercion, as Hobbes maintained it. We must preserve our current states both from internal and external threats, since the inauguration of a juridical state of affairs does not, for Kant, represent the elimination of conflict, including “that evil aspect of human nature which makes coercion necessary”.<sup>131</sup>

One may object here that Kant does not offer a clear distinction between actual forms of violence, and mere threats of violence. However, I think this distinction is implicit in Kant’s discussion on revolution and the consequences that an *actual* violent attack on the state may have. Kant certainly took great care to frame his views both as a means to an overall condemnation of violence as the way to secure claims of right, and as a means to show the inherent value of securing the state from dissolution.

Sometimes these claims are explicitly endorsed; for example, it is customary for Kant to phrase his discussion of revolution in terms of “factions”, “violent overthrow” of governments, “defiance”, and “devious paths...of cunning and violence”.<sup>132</sup> More specifically, Kant goes as far as to claim that “in order to preserve the state from catastrophe”, it might be necessary for individuals to betray someone

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<sup>129</sup> *Contest of the Faculties*, p. 184

<sup>130</sup> Interestingly, as early as *Ideas*, Kant runs an argument in favor of the positive effects of seemingly conflicting interests and human antagonisms. The thought is discussed in connection to the workings of Nature as Providence, and the ways in which it facilitates the progressive compatibility of our selfish tendencies. There Kant says that, once we find ourselves in the confines of the civil union, “the same inclinations have the most beneficial effect”, where the individual is compelled by his own nature and through practice “to develop completely the germs which nature implanted”. Cf. *Ideas*, p. 46-48

<sup>131</sup> *Perpetual Peace*, p. 126

<sup>132</sup> Cf. *Theory and Practice*, p. 83; *Doctrine of Right* §52, 355; *Perpetual Peace*, p. 123, my emphasis.

else, “even if their relationship were that of father and son”, since the “*preservation* of the state from evil is an absolute duty”.<sup>133</sup> These remarks appear in the context of an interesting discussion on conflicting duties. What is clear for our purposes is the firm priority Kant gives to the preservation of the state, in reference to any other competing (relative) duties.

Moreover, the preservation and continuity of the juridical condition is not an ungrounded valuation on Kant’s side, but part of his more general argument for the “*salus publica*” of the state, which “demands *first* consideration and lies precisely in that legal constitution which guarantees everyone his freedom within the law.”<sup>134</sup> We can see here that it is *solely* within the boundaries of the judicial state of affairs that individual freedom is possible, preserved, and secured.

This argument finds an echo later on in the *Doctrine of Right*. There, Kant expands on the nature of the state’s “well-being” by saying that it “consists in the [three authorities] being united”, and gives us a clue that those who seek something different from this conception of *salus publica*, can attain it “more easily and satisfactorily in a state of nature (as Rousseau maintained) or even under a despotic government”<sup>135</sup>, but never by seeking them through violent means.

Although our constitutions may present deep defects and errors, “it is absolutely unpermitted and culpable to oppose it”,<sup>136</sup> and the call for preservation over radical change is not only a suggestion on Kant’s part, but a well-developed conception concerning the dynamics of war and peace. Once again, Kant is at one with Pufendorf when saying that:

[A] cautious man who loves his own security will believe all men his friends but liable at any time to become enemies; he will keep peace with all, knowing that it may soon be exchanged for war. This is why that country is considered happy which even in peace contemplates war.<sup>137</sup>

### 2. 3. 3 *The argument from security:*

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<sup>133</sup> *Theory and Practice*, p. 81n

<sup>134</sup> *Ibid.*, p. 80

<sup>135</sup> *Doctrine of Right*, §49 318

<sup>136</sup> *Doctrine of Right*, Appendix 372

<sup>137</sup> Pufendorf, S. (1991) *On the Duty of Man and Citizen According to Natural Law*. Cambridge University Press: Cambridge, p. 119

The problem of revolution emerges with particular clarity in connection to that of “civil security”.<sup>138</sup> This notion is mentioned by Kant, at least to my knowledge, in his *Conjectures on the Beginning of Human History*,<sup>139</sup> and I think it captures in a succinct manner the connection he draws in his political doctrine between the civil condition and juridical/political security. Here I understand the civil condition as the totality of the social fabric of interests and relations in their external character. This web of relations is made possible only through the juridical and political security guaranteed by the legitimate monopoly of state coercion.

For this reason, I read Kant to be largely in affinity with those who, like Hobbes and Pufendorf, attribute to the state an important role to play in the security of its subjects, as a means to make possible the continuity of juridical, social and political relations, and the preservation of the bonds that hold them together, which were absent in the state of nature.

As already noted, the content of Kant’s state of nature argument is not devoid of empirical and anthropological assumptions: it is a state marked by the antagonism of human interests, nurtured by their selfishness, and a latent state of war. Contrary to this, Kersting has argued that in Kant’s political philosophy, “the state is not demanded by prudence and utility, but is called for by reason itself and thus equipped with the property of juridical necessity”.<sup>140</sup> I agree that Kant’s conception of the state responds *also* to his transcendental model of argumentation, but Kant still vindicates the “sheer necessity” that justifies our entering the civil condition, which he calls “the most stringent of all forms of necessity, for it is imposed by men upon themselves, in that their inclinations make it impossible for them to live side by side for long in a state of wild freedom”.<sup>141</sup>

Largely owing to these internal tensions in Kant’s thought, I contend that looking into the issue of revolution helps to clarify Kant’s more general position. From this perspective, revolutions run directly counter the “civil security” we aimed

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<sup>138</sup> *Conjectures on the Beginning of Human History* (1786) in *Kant’s Political Writings*, p. 230

<sup>139</sup> *Ibid.*, p. 230

<sup>140</sup> Kersting, W. (1992) ‘Politics, Freedom, and Order: Kant’s Political Philosophy’ in *The Cambridge Companion to Kant* (ed.) Paul Guyer. Cambridge University Press: Cambridge, p. 352

<sup>141</sup> *Ideas*, p. 46

at achieving in entering the civil condition, be this motivated by empirical or rational reasons. Thus, the juridical and political security is represented by the extant authorities, and lost in the face of radical political change.

Whereas for Pufendorf the general rule for sovereigns is “the safety of the people”, for authority has been given to them “to achieve the end for which states were instituted”,<sup>142</sup> for Hobbes security becomes “the End for which men subject themselves to others, and if it is not forthcoming, the implication is that no one has subjected himself to others”.<sup>143</sup> In a similar vein Kant clearly states that the “end for which a civil constitution was established” is that of “securing the rightful state”. Finally, this end must not be achieved by violent means, for it is the aim of the state “to ensure its continued existence as a commonwealth”.<sup>144</sup>

### ***2. 3. 4 The argument from the alienation of sovereignty and its corollaries:***

From the myriad of issues of which revolution is part, the problem of sovereignty brings to light like none other most of the fundamental difficulties involved. I understand the problem of sovereignty to include Kant’s discussions of the social contract, the idea of the general will, state authority, and political obedience. More specifically, I refer to it as the *alienation* of sovereignty by claiming that, in Kant, the locus of political power, namely, the interpretation and enforcement of the general will is alienated in the figure of the sovereign, whose authority is defined as “irreproachable” and “irresistible”.<sup>145</sup>

Kant’s particular views on these corollaries went through a progressive transformation, arriving in the *Doctrine of Right* to a more definite view in favor of a separation between the sovereign and the people, by finally asserting that “everyone among the people is purely passive in relation to the supreme power”,<sup>146</sup> and it is the people’s duty to endure even the most intolerable abuse of supreme authority”.<sup>147</sup> It is

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<sup>142</sup> Pufendorf, S. (1991) pp. 151-152

<sup>143</sup> Hobbes, *De Cive*, VI, 3

<sup>144</sup> *Theory and Practice*, p. 80

<sup>145</sup> Cf. *Doctrine of Right* §46 316; *Theory and Practice*, p. 81

<sup>146</sup> *Doctrine of Right* §49 317; 320

<sup>147</sup> *Ibid.*, General Remarks A, 320

thus essential to make sense of these conclusions, if we are to take them as an argument against revolution.

No doubt these striking passages have been received by some commentators as “unworthy of [Kant’s] own better thinking”.<sup>148</sup> In a discussion over state sovereignty and the possibility of a federation of nations, Patrick Riley admits that one finds in Kant too much of a concession “to the mere de facto sovereignty of the states”, for someone who is arguably criticizing Hobbes. For my present interpretation, these discoveries are gladly welcomed. However, we are at one with Riley when he also admits that “it is precisely the fear of anarchy, the loss of a political-legal context for morality”, that forced Kant to say some of the “harsher things” one finds in his views on revolution.<sup>149</sup>

### ***Kant’s ‘Anti-Hobbes’:***

In a section of *Theory and Practice* titled ‘Anti-Hobbes’, Kant addresses Hobbes by saying that the English philosopher endorses the “quite terrifying” proposition according to which the head of the state “has no contractual obligations towards the people”, inferring from this that he can “do no injustice to a citizen” and act as he pleases.<sup>150</sup> Given the Hobbesian heritage I have been reading into Kant’s thought, this must come as a rather surprising statement.

However, writing “against Hobbes does not make Kant a disciple of Rousseau”.<sup>151</sup> Interestingly, Kant’s own definition of the contractual status of the sovereign (the legislator) reads: “The sovereign in the state has many rights with respect to the subject, but no (coercive) duties”. If the sovereign “proceeds contrary to the law” the subject may raise a complaint, for example by bringing a letter to the sovereign, “but may not actively resist”.<sup>152</sup>

We see then that for Kant, the fact that the state could act unjustly *can* be posed, but the illegitimacy of rebellion still holds. It is clear that he is here arguing in the fashion of Pufendorf who, like Hobbes, acknowledges that the question of

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<sup>148</sup> Riley, P. (1983) *Kant’s Political Philosophy* Rowman & Littlefield Publishers: Totowa, p. 177

<sup>149</sup> *Ibid.*, pp. 117-8

<sup>150</sup> *Theory and Practice*, p. 84; Cf. Hobbes, *De Cive* VI, 14; *Leviathan* 18, 4

<sup>151</sup> Philonenko, A. (1968) *Théorie et Praxis dans le pensée morale et politique de Kant et de Fichte en 1773*. Librairie Philosophique J. Vrin: Paris, p. 41

<sup>152</sup> *Doctrine of Right*, General Remarks A, 319



injustice might be posed. To that end Pufendorf says: “The sovereign and the subjects are equally bound by natural laws, which make them sufficiently susceptible of injustice of one against the other.”<sup>153</sup>

By further clarifying this structure, Kant explicitly reserves to the sole figure of the ruler the capacity to punish in his function as executive authority. This makes him free from being punished himself, because “to punish the ruler would mean that the highest executive authority itself would be subject to coercion, which is a self-contradiction”. Thus the immunity of the ruler allows us to conclude that he is in a different contractual status with respect to the citizens, upon which he has the monopoly of coercion “in accordance with the law”, or in Kant’s particular interpretation of a common English saying: “The King, that is, the supreme executive authority, can do no wrong”.<sup>154</sup>

To further the close conformity between Hobbes and Kant on this issue, we should turn directly to Hobbes. As it is well known, he shares with Kant the absolute repudiation of revolution or any form of seditious activity that challenges the power of the state. However, he acknowledges that there is a limiting condition to the sovereign’s acts, since, if he were to act unjustly, he could not do so “without violating natural laws and wronging God”. Hence, for Hobbes: “A Prince’s oath offers a certain security to his subjects”, contrary to Kant’s initial accusation.<sup>155</sup>

In addition, Hobbes is willing to concede that if this appeal to natural and divine law, as a limiting condition for the sovereign’s acts, seems insufficient it is still not to the advantage of the sovereign to “want to spoil his citizens”. That the need to oppress them might arise stems not so much from the malevolent capriciousness of the government, but from the inevitable inconveniences of human affairs:

For if men could rule themselves by individual self-government, that is, if they could live according to the natural laws, there would be absolutely no need of a commonwealth not to be kept in check by a common power.<sup>156</sup>

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<sup>153</sup> Pufendorf, *Le Droit de la Nature et des Gens*, in Philonenko (1968) p. 44

<sup>154</sup> *Doctrine of Right*, § 48, 317

<sup>155</sup> Cf. Hobbes, *De Cive* VI, 12-14

<sup>156</sup> Hobbes, *De Cive* VI, 12

Going back to Kant, we can glean at a number of important conclusions: first, although sovereignty resides in the “united will of the people” which Kant declares “can do absolutely no injustice to anyone”<sup>157</sup>, the legitimate capacity to coerce and to enact this will is reserved to the ruler, thus alienating sovereignty in his person, whose executive authority is made effective and public through positive law. Second, that the ruler is immune from and exempt from punishment, and in a way unquestionable, precludes any possibility of legitimate revolution against its authority; more importantly on this point, Kant’s departure from the idea of popular sovereignty in favor of a *pactum subiectionis*<sup>158</sup>, in the fashion of Hobbes, eradicates the possibility that revolutions could be carried out in the name of the people, justifying “their rebellion by complaints about their unmerited suffering”, or contesting the original contract when by their own discretion the contract “has been severely violated”.<sup>159</sup>

To emphasize, the idea that sovereignty dwells not in the people as a collective person capable of passing judgments against the state, but in the coercive authority embodied by the ruler, and enacted by the arm of positive law is, in my opinion, at the basis of Kant’s critique of revolution. It is in this sense that I understand Kant’s claim that all forms of resistance and all revolutions have stepped upon the principle according to which: “[T]he people, under an existing civil constitution, has no longer any right to judge how the constitution should be administered”, and thus the power of the state “to put the law into effect” is “irresistible”.<sup>160</sup>

It is plain from these passages that Kant’s more exalted defense of man’s inalienable rights as a residual source of power against the sovereign, loses much of its actual effect in the broader scheme of things. As Waldron concludes:

The virtue of positive law is its univocality, its power, its being put forwards in the name of the whole community, not in its reflecting necessarily, in its content, the interests and concerns of all those who are individually subject to it.<sup>161</sup>

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<sup>157</sup> *Doctrine of Right*, §17 313 The same idea is presented in *Theory and Practice* where Kant says that: “The act of a public will, from which all right proceeds and which must not therefore itself be able to do injustice to anyone. And this requires no less than the will of the entire people...For only towards oneself can one never act unjustly”. (p. 77, my emphasis)

<sup>158</sup> *Doctrine of Right*, §49 318

<sup>159</sup> *Theory and Practice*, pp. 82; 83

<sup>160</sup> *Theory and Practice*, p. 81

<sup>161</sup> Waldron, J. (1996) ‘Kant’s Legal Positivism’ *Harvard Law Review*, vo. 109, No. 7, p. 1560

One remains rather perplexed that, in the same context where Kant's 'Anti-Hobbes' argument is developed, one finds, on the one hand, Kant's appraisal of freedom of the pen animated by a spirit of freedom as the "only safeguard of the rights of the people"<sup>162</sup>, and on the other hand, his most severe bans on the right of people to offer "verbal or active resistance" to the sovereign, that is, "to oppose him in word or deed".<sup>163</sup>

It is not my aim here to dwell on the obvious tensions that exist between these lines of arguments. However, I find it difficult to sustain Kant's accusations against Hobbes as fair ones, given the structural similarities of their arguments as well as the content of their conclusions.

### ***The separation of the sovereign and the people:***

Kant vacillates in the ways he characterizes the figure of the sovereign;<sup>164</sup> however, I think that there is a conceptual separation between the people and the role of the sovereign, which yields important consequences for his argument against revolution.

Perhaps the clearest argument for this point has been elicited by Alexis Philonenko.<sup>165</sup> According to his reading, one must trace Kant's rejection of a right of rebellion back to his principles of right, specifically to the principle of equality. It is in this principle where we get the conceptual definition of man as "subject", who is equal in respect to the law but absolutely passive, i.e. incapable of rebellion, in respect to the authority. This is due to the separation at the heart of the principle, which reads:

Every member of the commonwealth has rights of coercion against all the others, except in relation to the head of the state. *For he alone is not a member of the commonwealth*

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<sup>162</sup> *Theory and Practice*, p. 85

<sup>163</sup> *Ibid.*, pp. 85; 83

<sup>164</sup> Fehér points out to this difficulty by surveying Kant's references to the sovereign as sometimes "identical with the chief executive", and at times referred to as an "invisible" figure, "the personification of the law, rather than as an agent", thus introducing the relevant ambiguities. Cf. Fehér, F. (1990) 'Practical Reason in the Revolution: Kant's Dialogue with the French Revolution' in *The French Revolution and the Birth of Modernity* (ed.) Ferenc Fehér. University of California Press: Berkeley, p. 213

<sup>165</sup> Philonenko, A. (1968) *Théorie et Praxis dans le pensée morale et politique de Kant et de Fichte en 1793* Librairie Philosophique J. Vrin: Paris.

*its creator or preserver*, and he alone is authorized to coerce others without being subject to any coercive law himself.<sup>166</sup>

This passage, Philonenko insists, unravels one of Kant's most important claims, in order to pave the way for his argument against resistance, namely that the "status of the Sovereign constitutes an exception to the principle of equality", so an alleged right of rebellion runs radically against "the conception of sovereignty itself",<sup>167</sup> the sole notion that could put a stop to the chain of submission by being conceptually exempt from it.

In connection to the previous section, one of Kant's reasons for consternation about Hobbes's position was based on the possibility that the sovereign could have no obligations to its citizens. It is interesting, thus, to see that Kant himself exempts the sovereign as a member of the commonwealth, and insists that we can solely rely in his "good will", on the hope that he governs on the basis of this attitude. It could be argued that the sovereign becomes bound by his own conscience and good willed disposition to govern in a manner akin to right. This thought is also conveyed by Hobbes when he writes that:

The will of the *assembly* or the *man* to whom *sovereign power* has been committed is the will of the commonwealth; hence it comprehends the wills of individual citizens; and therefore one to whom *sovereign power* has been committed is not bound by the *civil laws* (which is an obligation to himself) nor obligated to any of the citizens"<sup>168</sup>

We are able to conclude that at the heart of Kant's account of sovereignty, there lies a separation between the sovereign and the people, and to draw three fundamental lessons: first, this separation manifests Kant's commitment to the priority of order and stability over questions of popular and collective exercises of sovereign power; second, Kant thinks that this separation demands the attribution of discretion to the sovereign's judgment, on matters of interpretation and enforcement of the idea of the social contract, such that the people cannot rebel by appealing to their own discretionary capacities. And finally, I think that we find here the germs of Kant's attempt to demystify Rousseau's idea of the theoretical, as well as practical, unity of the general will as a revolutionary agent.

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<sup>166</sup> *Theory and Practice*, p. 75, my emphasis.

<sup>167</sup> *Ibid.*, p. 48

<sup>168</sup> Hobbes, *De Cive*, VI, 14

In addition to these lessons, Philonenko argues that this separation goes on to capture two of Kant's philosophical differences with Rousseau: on the one hand, for Rousseau the idea of equality is essentially "active", as the means to establish "the identity of the people with the sovereign";<sup>169</sup> whereas for Kant, the idea of equality means nothing but "the equal passivity of all against power", resulting in the submission of obedience. On the other hand, the idea of the sovereign's independence from the people wholly transforms Rousseau's view of the social contract, which "refuses to detach sovereignty from the people, notionally attached in the actuality of the general will".<sup>170</sup>

These are in part the reasons why I share with this interpreter that, in general, Kant stands in the tradition of Hobbes and Pufendorf.<sup>171</sup> As it appears in their respective philosophies, Kant's sovereign remains external to the commonwealth, in the hope that he renders tribute to the criterion of the social contract, which is made legitimate not by consensus. In a characteristic turn of phrase, Philonenko concludes: "Kant, disciple of Rousseau! Must this be but a fable?"<sup>172</sup>

### ***The bonds of the Kantian social contract:***

To be sure, Kant departs from a conception of the social contract<sup>173</sup> as consensual, by reiterating two basic claims of his theory of sovereignty: on the one hand, since entering the civil condition is not a matter of consent, we are entitled "to use violent means to compel another to enter into a juridical state of society", and he who deliberately tries to resist this acts "in the highest degree wrongly [and unjustly]";<sup>174</sup> on the other hand, the nature of the social contract as an idea of reason eliminates the consent of the majority as the mark for its legitimacy.<sup>175</sup> As Filkschuh

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<sup>169</sup> Cf. Rousseau, *Social Contract*, L. I., ch. VII in Philonenko (1968) p. 50

<sup>170</sup> Cf. Philonenko (1968) pp. 50-53

<sup>171</sup> A different interpretation is offered by Vlachos in his *Le pensée politique de Kant*, who sees Kant as occupying a middle-way position, given the formal and ideal structure of his political solution. He thinks that Kant viewed his political ideal "at an equal distance between the hypothesis of renouncement, advanced by the author of the *Leviathan*, and that of popular democracy championed by the author of the *Social Contract*". Cf. Vlachos (1962) p. 477

<sup>172</sup> Philonenko, A. (1968) p. 54. For a more sympathetic reading of Kant's relation to Rousseau on the issue of the social contract see Riley, P. (1973) 'On Kant as the Most Adequate of the Social Contract Theorists', *Political Theory* 1: 450, pp. 465-466

<sup>173</sup> On Kant's relation to the social contract tradition see Riley (1973); Baynes, K. (1989) 'Kant on Property Rights and the Social Contract' *The Monist*, Vo. 72, No. 3, pp. 44-47.

<sup>174</sup> Cf. *Doctrine of Right* 312; 308

<sup>175</sup> On the function of the idea of the social contract as a test intended for the use of possible, or existing legislator analogous in form to the categorical imperative see Baynes (1989) pp. 446-447. I

points out, in Kant “the civil condition is not established through an act of consensual self-constitution by its members but results from morally necessary subordination by members under a head”.<sup>176</sup>

This is possibly the right place to raise a question regarding the nature of Kant’s contract as the ground for the juridical condition: if a consensual act is not what justifies the corresponding subordination to public authority, what then *holds* the civil condition once it is established? The individual’s awareness of a moral duty to enter the state? A sense of justice? A Hobbesian fear of violent death?

The question is highly relevant and I think it involves two different points: first, a question regarding the reasons that motivate us to enter the civil condition in the first place; and second, a question concerning the *role* of the state, such that it is worthy to hold on to and, more importantly for my interpretation, to preserve and protect the juridical condition.

I will concentrate on the latter point, namely, on the role of the state in Kant and the bond that holds its existence together. The question is relevant since a radical political change as the one intended in a revolution, involves essentially a *questioning* concerning the binding force of the civil condition and, more generally, a challenge to the whole concept of statehood.

In the case of Hobbes, for example, the answer to these questions seems clear from the outset: fear is both the element that compels us to enter the civil condition and also the reason to remain in it.<sup>177</sup> Even if all the subjects of the commonwealth directed their wills to a “common good” to channel their ends and cancel out their antagonisms, fear would still be needed.<sup>178</sup> The role of the Hobbesian state is thus the translation of a common fear into a state of security: “Security is the End for which men subject themselves to others, and if it is not forthcoming, the implication is that no one has subjected himself to others”.<sup>179</sup>

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agree with Bayne’s insistence that the idea of social contract in Kant is seen as a tool for the law-giving activity of the *sovereign*, and not, at least primarily, as the idea that represents the activity of the united general Will.

<sup>176</sup> Filkschuh, K. (2008) ‘Reason, Right, and Revolution: Kant and Locke’ *Philosophy and Public Affairs* 36, No. 4, p. 393

<sup>177</sup> Cf. Hobbes, *Leviathan* 12, 63

<sup>178</sup> Hobbes, *De Cive*, V, 2-3

<sup>179</sup> *Ibid.*, VI, 3

Contrary to this Hobbesian picture, fear is not the vehicle through which the Kantian state holds its parts together. However, Kant sees an intimate connection between creating the conditions for “civil security” in the spirit of freedom, and holding the existence of this condition by means of a coercive authority. Thus, to preserve the existence of the civil condition, Kant acknowledges, “an additional unifying cause” must be present in addition to the will of all to live in accordance with the principles of freedom: establishing coercive authority “by force”, upon which “public right will subsequently be based”.<sup>180</sup>

The final element of this reconstruction is that *legitimate* use of coercion, or in Filkschuh’s wording, the “coercive political authority”,<sup>181</sup> needs to fit in *legal-synergy*, so to speak, with the idea of the co-existing freedom of all. This is, in essence, a version of what I argued extensively in Chapter 1 as Kant’s definition of the problem of politics, in terms of the reconciliation between order and freedom.

To sum up: it is a distinctively Kantian answer to the question of the role of the state that the exercise of coercive authority is not to be done without a necessary qualification. The problem of inaugurating and maintaining a civil condition demands the reconciliation of two elements: order and freedom, but not *any* order; order understood as the sphere “where the concepts of reason only allow for *lawful* coercion, in keeping with the principles of freedom, which alone makes possible a rightful established political constitution”.<sup>182</sup>

I emphasize the word “lawful” since, for Kant, an empirical shortcoming in the current exercise of coercion will never count as a reason for a *legitimate* claim of rebellion. The legitimacy of the monopoly of coercion on the part of the *de facto* state is repeatedly confirmed by Kant, when he says that: “The authority *that is now here and under which you live* is already in possession of the [right of] legislation”, and you “cannot set yourself up as opposing legislators”.<sup>183</sup>

Moreover, it has been noted that Kant’s departure from the “revolutionary implications” of Rousseau’s idea of the social contract, places him closer to Hobbes,

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<sup>180</sup> *Perpetual Peace*, p. 117

<sup>181</sup> Filkschuh, K. (2012) ‘Elusive Unity: The General Will in Hobbes and Kant’, *Hobbes Studies* 25, p. 33

<sup>182</sup> *Perpetual Peace*, p. 119, my emphasis.

<sup>183</sup> *Doctrine of Right*, Appendix 372

for whom, “any public authority is preferable to the state of nature”. On this point, Baynes detects that the alliance with Hobbes is not absolute, since the social contract involves a “critical function” in Kant that is absent in Hobbes.

Surely, the critical function that the idea of the social contract adopts in the context of Kant’s argument is important. However, it calls too quickly for a qualification Baynes’s himself has identified, namely, that the critical use of the idea of the social contract to test the justness of public law and its application is limited to the sovereign’s will, as it is with Hobbes.

It is with this argument in view that Kant is able to say in *Theory and Practice* that the sovereign, as far as he is the representation of the general Will, “from which all right proceeds and which must not therefore itself be able *to do injustice to anyone*. And this requires no less than the will of the entire people...*For only towards oneself can one never act unjustly*”.<sup>184</sup> Kant places this thought as a direct counter-argument against revolutionary claims which, on the basis of the alleged injustice on the part of the sovereign, find it necessary to rebel. That the sovereign must thus be understood as an uncontestable *mirror* of the will of all, points back to the *Leviathan*, where Hobbes says:

He that complaineth of injury from his sovereign complaineth of that whereof he himself is the author, and thereof ought not to accuse any man but himself; no himself of injury, *because to do injury to one’s self, is impossible*.<sup>185</sup>

I think that all of this adds further evidence to Kant’s departure from Rousseau’s conceptions of the social contract and the general Will. The “revolutionary implications” that Bayne rightly sees in Rousseau are understood by Kant not as the idea that the sovereign could be mistaken, or willing to act contrary to the people’s will, but that he can be *contested*, and consequently *opposed*.

That history has given too many examples of this being exactly the case, the actual abuse on the part of the government is for Kant unfortunate, and may indeed

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<sup>184</sup> *Theory and Practice*, p. 77, my emphasis.

<sup>185</sup> Hobbes, *Leviathan*, 18. 6-7



“need to be gradually improved in many respects” through constitutional reforms,<sup>186</sup> yet it can never serve as a justification for triggering the “revolutionary thrill”.<sup>187</sup>

In my view, Kant’s critique of revolution cannot be adequately understood without keeping in mind the context from which he derives his, sometimes, unwelcomed conclusions. For some, Kant’s ultimate appeal to unrestricted authority, his advancement of positive law, and the admission of uses of coercion *without* qualification, is too close to a capitulation to Hobbesian prudentialism<sup>188</sup>, an unresolved problem in Kant’s own thought, or what Ripstein calls a “remedial view of justice”.<sup>189</sup>

### ***Revolution as a second-order question:***

A sequel to the problem of sovereignty and revolution can be articulated as an essential *gap* that remains between who is to legitimately hold coercive power, on the one hand, and on the other hand who is to judge that such legitimacy holds, or in the case of a negative judgment, whether the holder of power should be overthrown or changed.

This problem has been recognized by Christopher Meckstroth<sup>190</sup> by explaining that, for Kant, revolution takes the form of a “second-order question”, namely, a question about “who is to say whether or not a putative authority performs its required role sufficiently well to merit obedience in practice”. Also, he anticipated that while Kant deserves credit for focusing attention on this question, “he cannot also be said to have solved it”.<sup>191</sup>

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<sup>186</sup> Cf. *Doctrine of Right*, Appendix 372

<sup>187</sup> Korsgaard, C. (1997) ‘Taking The Law into Our Own Hands: Kant on the Right of Revolution’, in *Reclaiming the History of Ethics: Essays for John Rawls* Cambridge University Press: Cambridge, p. 260.

<sup>188</sup> This objection is mentioned by Filkschuh (2012) but not endorsed. On the contrary, she tries to show that Kant’s radical externalism about Right, based on others’ valid freedom claims against me and not on prudential considerations, secures Kant from the aforementioned accusation. Cf. Filkschuh, K. (2012) pp. 33-36

<sup>189</sup> Cf. Ripstein, A. (2012) ‘Kant and the Circumstances of Justice’ in *Kant’s Political Theory* Ed. Elisabeth Ellis The Pennsylvania State University Press: Pennsylvania, p. 66

<sup>190</sup> Meckstroth, C. (2013) ‘Kant on Rebellion and the Mere Idea of Popular Rule’ (draft version) in *The Struggle for Democracy: History, Paradox, and the Politics of Change*, forthcoming from Oxford University Press.

<sup>191</sup> *Ibid.*, p. 5

We should pause here for a moment, as it seems to me that this conclusion could be avoided in the following ways: firstly, I think that phrasing the problem of revolution, as it appears *in Kant*, in the way Meckstroth construes it is ill-formed, since it basically incorporates into the question a view of legitimacy as *dependent* on the people's judgment on the putative authorities exercise of power, and as a condition for their willingness to obey. This is something we do not find in Kant. Secondly, thinking that Kant has left us without a solution to the problem of legitimacy, seems to be based on a democratic expectation on our part with respect to Kant's views. As Filkschuh has rightly argued, we could be tempted to draw a reading of Kant as a "quintessentially democratic thinker", who addresses this second-order issue by locating "sovereignty in 'the people'", and taking the general will as an "empirical reality".<sup>192</sup> Yet, it is plain for Kant that the idea of the united will of all has no empirical reality but serves as a criterion at the hands of the sovereign to judge the social contract.

However, in my view, the value of arguments like Meckstroth's lies in bringing to light Kant's particular way of dealing with the problem of revolution, regardless of our expectations. I think that Kant identifies two basic mistakes in this picture: first, that, there is no empirical embodiment of the idea of 'the people', such that it can act as a collective agent; and second, that the sovereign does not derive his authority from consensus, but from the demand reason places in every individual to abandon the state of nature and enter the civil condition.

### ***Non-states, barbarism, and non-Kantian justifications for revolution:***

A substantial group of interpreters<sup>193</sup> have taken a similar line of argument, presenting their concerns as follows: if entering a juridical condition is a demand of reason, how are we to know we are actually in one and not, for example, in a mock-state<sup>194</sup> of right? Have we ever, following Kant's closely, left the state of nature?

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<sup>192</sup> Filkschuh, K. (2012) 'Elusive Unity: The General Will in Hobbes and Kant', *Hobbes Studies* 25, p. 38

<sup>193</sup> Cf. Byrd, S. & Hruschka, J. (2010) *Kant's Doctrine of Right: A Commentary*, Cambridge University Press: Cambridge; Maliks, R. (2013); Ripstein (2012)

<sup>194</sup> Ripstein (2012) has offered a version of this argument by taking seriously Kant's typologies of states in the *Anthropology from a Pragmatic Point of View*. There Kant distinguishes between four forms of states: first, "law and freedom without force" which is anarchy, second, "law and force

According to this line of thought, a juridical state must be sufficiently distinguishable from a state of nature since *only* in the former condition revolutions are unjust. This has been defended by Byrd and Hruschka who think that Kant's prohibition against revolution "only applies in a state that is *truly* a juridical state".<sup>195</sup> Before we move forward, notice the inherent valuation in the qualification of a "truly" juridical state. If we look back into Kant's own technical definition of a juridical state, there are only two options available: either we are in a state of nature "in which justice is absent (*status iustitiae vacuus*)",<sup>196</sup> or we are in a juridical state, "under which alone everyone is able to enjoy his right".<sup>197</sup> No further qualifications are given to the juridical state, nor a scale of gradation between true and less-true forms of such a condition.

The novelty of this argument was, interestingly, already anticipated in Schlegel, who said to have recognized in *Perpetual Peace* that an abusive and corrupted government cannot be rightly judged as performing its duty, so that it becomes "a quasi-state, not a genuine form but as a degenerated form of the state."<sup>198</sup> Thus, for a radical like Schlegel, revolutions *could* be justified by involving two different calls: a moral call to resist despots, and a political call to overturn unjust governments, in order to inaugurate better and more secure constitutions.

But, one wonders, how about borderline cases? Byrd and Hruschka seem to recognize this difficulty when, in describing the duty to reform the constitution, "as finite and fallible beings we can only approach the state in the idea, and thus will never actually realize the perfect constitution." I think this acknowledgment is much more in line with the spirit of Kant's views on revolution and statehood, in admitting

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without freedom" which is despotism, third, "force without freedom and law", which is barbarism, and finally, "force with freedom and law", which is a republic. From these combinations, Ripstein concludes that Kant's remarks about revolution must be read as directed against barbaric states, a degenerative form of a republic. Properly understood, when a state becomes barbaric it turns into a "defective form of a state of nature", dominated by the unilateral use of brute and arbitrary force. Those who find themselves confronted with this state may rightly revolt against it, and seek to establish a rightful condition in its place. Under this defective form of state, "no issue arises of whether it may be resisted with right": it *must* be resisted. Although the appeal to barbarism is powerful in its own grounds, I find it rather surprising that Kant does not argue for this typology, nor expands on the nature of barbarism in his political writings. The dichotomy we get throughout the texts is reduced to either despotism or republicanism as forms of government. Interestingly, revolution is banned in both scenarios. Cf. Ripstein, A. (2012) 'Kant and the Circumstances of Justice' in *Kant's Political Theory* Ed. Elisabeth Ellis, The Pennsylvania State University Press: Pennsylvania, pp. 67-68

<sup>195</sup> Byrd, S. & Hruschka, J. (2010) p. 91

<sup>196</sup> *Doctrine of Right* § 43, 312

<sup>197</sup> *Doctrine of Right* § 41, 306

<sup>198</sup> Schlegel in Malik (2012) p. 670

that we will inevitably find ourselves enduring “a juridical state with some degree of excess in state power”, that is, “a government not totally aligned with the idea of the original contract”.<sup>199</sup>

I suspect that it is one of the virtues of Byrd’s and Hrushka’s interpretation, that it encourages Kant’s readers to look for the necessary conditions that must be fulfilled in the ideal juridical state, i.e., separation of powers, governance in accordance with the laws of freedom and the general will, etc. However, my worry has to do with the distortions this line of argument brings to the issue of revolution in Kant’s thought, and here I have two things in mind: on the one hand, Kant’s rejection of revolution is well-grounded, *to the extent* that we are *already* in the context of a juridical condition *or rechtlicher Zustand*<sup>200</sup>; on the other hand, such arguments, if taken out of context, could jeopardize Kant’s insistence that a state of nature must be abandoned, and that the juridical condition must be preserved and protected.

Moreover, what these arguments fail to notice is that, for Kant, we do not have to be in the extreme case of despotism, or even in a mediocre state with systematic shortcomings in the exercise of right, in order to realize the essential fragility of our institutions and the precariousness of instantiating “civil security” as a guarantee to maintain, protect, and promote external freedom. It is precisely *because* of this fragility that revolutions are not only a crime, but represent a step backwards in our (moral) duty to achieve better constitutions.

It is important to mention here a connection I think Kant makes between constitutional stability and the elimination of violent conflict. As history has sufficiently shown, revolutions are prone to bring civil unrest, resulting in civil war. It is the case with Kant, as it is with Hobbes, that war is thought of as a “political evil”,<sup>201</sup> that unleashes unforeseen consequences and which must be avoided. Contrary to Kant’s well-known proviso, revolution seems to be justified on the basis of a valuation of mock-states.

### ***Remedial views of justice:***

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<sup>199</sup> Byrd, S. & Hrushka, J. (2010), p. 185

<sup>200</sup> For a detailed discussion on the development of Kant’s conception of the juridical state see Byrd, S. & Hrushka, J. (2008) ‘From the State of Nature to the Juridical State of States’ *Law and Philosophy*, Vol. 27, No. 6, Sec II.

<sup>201</sup> *Contest of the Faculties*, p. 189

That Kant does not hold a remedial view of justice of the kind espoused by Hobbes and Locke is, according to Ripstein, clear from his position on the right of revolution, and his commitment to “the supremacy of the rule of law against other normative claims that seek to contest it”. The argument thus concludes that, since justice and law are in no way remedial of the deficiencies either of our nature or of our society, revolutions are never justified.<sup>202</sup>

I think that Ripstein is right in emphasizing Kant’s commitment to the “supremacy of the rule of law” if by this we understand the principle of right as it is translated and enacted by positive law. Moreover, if by a “remedial view of justice” we understand a paternal and interventionist state that goes beyond its role as arbiter in conflicting claims of right, I also agree with Ripstein’s suggestion.

However, Kant is also deeply committed to a view of politics where the reconciliation of order and freedom is seen as a difficult, yet not impossible task, and revolutions are the most clear of example of a threat to this reconciliation. If this is right, it could be argued that Kant does have a remedial view of justice to the extent that its embodiment in the civil condition is needed, in order to eradicate our antagonistic interests, compel us to obey the law, create an external, unifying bond independent of our moral attitudes, and to guarantee the continuity and security of such a condition for the exercise of rights in the face of violent threats.<sup>203</sup>

### ***Against popular sovereignty and violence: the locus of the disappointment.***

Those who grasp in Kant’s critique of revolution a deep-seated mistrust of the masses and also a restricted view of popular sovereignty, could be willing to also acknowledge, as I suggest we should, the sharpness of his thought in realizing the connection between revolutions and permanent violent conflict.

That the events of the French Revolution incorporated in the horizon of Kant’s political philosophy the problem of armed conflict, civil war, and violence, is further confirmed in the *Contest of the Faculties*, where he insists that the “true enthusiasm” in that the human race will improve morally, is always directed “exclusively towards

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<sup>202</sup> Ripstein, A. (2012) ‘Kant and the Circumstances of Justice’ in *Kant’s Political Theory* ed. Elisabeth Ellis, The Pennsylvania State University Press: Pennsylvania, p.66

<sup>203</sup> Cf. *Idea*, p. 44; *Theory and Practice*, p. 81; *Perpetual Peace*, p. 121 *Doctrine of Right*, §44; §49

the ideal”, since in reality we have available only a “negative guarantee” for progress: the duty to “submit to those conditions by which war, *the source of all evils and moral corruption*, can be prevented”.<sup>204</sup>

It is all the more astounding that precisely in this text, which has served as the traditional source for a defense of Kant’s approval of the French Revolution, is also found the locus of his discussion on the negative effects of war as an “obstacle to morality”, an “enemy of progress”, and the impediment for a constitution’s stability.<sup>205</sup> Although the French Revolution aroused a sentiment of sympathy in its spectators, when it comes to state reform Kant is still in favor of “pursuing evolution instead of revolution”.<sup>206</sup>

I think that both of these claims foster, to a significant extent, one of the sources of dissatisfaction with Kant’s reaction against revolution, namely his taking part for the continuity of order and legality over radical political change through collective action. This crucial commitment of Kant’s political thought has been recognized by Malik when he says that, contrary to the hopes of Rousseau and the radical Kantians, “the mere wishes of a majority” remained for Kant “just a blind statement of desire unlimited by law, it is the attitude of the mob”.<sup>207</sup> Thus, by discrediting popular action as a vehicle for *juridical* and *political* progress, Kant proposes a model of top-down reform, leaving the hopes of his radical followers unfulfilled.

### ***Kant’s limited diagnosis of revolutions: an appeal to Edmund Burke***

I think we are now in a position to acknowledge that Kant’s diagnosis of the nature and the outcomes of modern revolutions is somewhat limited in scope. This is the case if we compare it, for example, to the complexity of Edmund Burke’s insights into the political, sociological, religious, and historical factors that played a decisive role in the revolutionary experiments in the XVIIIth century in Europe, most particularly in the French Revolution.

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<sup>204</sup> *Contest of the Faculties*, p. 183

<sup>205</sup> *Ibid.*, pp. 189; 185

<sup>206</sup> *Ibid.*, p. 189

<sup>207</sup> Malik (2012) pp. 667-668

The depth of Burke's careful account of revolution is evident in passages like the following, which is worth quoting in full:

Great discontent frequently arises in the best constituted governments from causes which no human wisdom can foresee, and no human power can prevent...Governments of all kinds are administered only by men; and great mistakes, tending to inflame these discontents may concur.... In such circumstances the minds of the people become sore and ulcerated. . . From their disgust at [public] men, they are soon led to quarrel with their frame of government...Then will be felt the full effect of encouraging doctrines which tend to make the citizens despise their constitution.<sup>208</sup>

However, I think that some of these thoughts resonate in Kant's own arguments, at least in spirit. One can conjecture that, due to Kant's naïve confidence that the strong but wise sovereign he had in mind would promote top-down reforms of the state, together with the authoritarian bent of his political philosophy, his views on revolution remained rather restricted. Kant does not seem to have a fully developed a diagnosis of the reasons that trigger revolutionary actions in the manner of Burke. However, it is equally right to say that Kant looked for the origins of revolution not so much in the internal fractures of society, or in the social discontent that could emanate from the people that conformed it, but rather on a reformist, and essentially conservative view of statehood and constitutional stability, that favored slow processes of reform over radical change, and held a deep commitment to the internal challenge of any juridical condition to maintain and secure itself in the context of peace. A similar thought is expressed in Burke by saying: “

History consists, for the greater part, of the miseries brought upon the world by pride, ambition, avarice, revenge, lust, sedition, hypocrisy, ungoverned zeal, and all the train of disorderly appetites, which shake the public with the same ‘troublesome storms that toss/The private state, and render life unsweet’. These vices are the *causes* of those storms. Religions, morals, laws, prerogatives, privileges, liberties, right of men, are the *pretexts*.<sup>209</sup>

However, it remains a virtue of Kant's political thought the consistent identification of revolution as a *political problem*, and not as a phenomenon only relevant for his philosophy of history, or his moral philosophy more generally. In this, he stands side by side with Burke, whose theory of revolution, as Michael Freeman

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<sup>208</sup> *Appeal from the New to the Old Whigs* (1791) in Freeman, M. (1978) ‘Edmund Burke and the Theory of Revolution’, *Political Theory*, Vol. 6, No. 3, p. 280

<sup>209</sup> Burke, E. (2006) *Reflections on the Revolution in France* Dover Publications: New York, p. 142

has rightly argued, was based on a “Hobbesian view of unrestrained man and the social need for power and order”.<sup>210</sup>

### ***2.3.5 The argument from judgment:***

One of the cornerstones of Kant’s critique of revolution is the claim that, in entering the civil condition, the subject “has no longer any right to judge how the constitution should be administered”, and solely the constituted “lawful supreme authority” has the right to determine “what is or is not to be publicly just”; this submission is unconditional and absolute.<sup>211</sup>

Taken together, these ideas foster the basis of Kant’s fundamental veer towards a conception of sovereignty according to which the sovereign and the people are conceptually separated. As we saw in previous sections, this separation rested on a particular notion of the social contract as a criterion for justice at the service of the sovereign, and not as a vehicle for the people to pass judgment against the interpretation and enforcement of authority. If my interpretation of this general structure is correct, I will now argue that this conception of sovereignty implied for Kant three further claims: first, matters of conflicting claims of judgments about *justice* are, essentially, non-disputable; second, the authority of the sovereign is non-contestable; and third, the juridical condition is marked by a sharp separation between private and public judgment.

In spite of its relevance, the gist of this argument is not completely developed in Kant. It is based, at least in part, on a more general assumption about the external character of Law, and on an appeal to positive law to settle matters of conflicts of justice. Yet, I think there is sufficient material to show Kant’s deep commitment to the reservation of judgment to the role of the sovereign, a position that is remarkably resonant with that of Hobbes.

One way to tackle these thoughts is by means of a comparison. According to Kant, the state of nature is primarily characterized by a situation where, in the absence

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<sup>210</sup> Freeman, M. (1978) ‘Edmund Burke and the Theory of Revolution’, *Political Theory*, Vol. 6, No. 3, p. 290

<sup>211</sup> Cf. *Theory and Practice*, p. 81; *Doctrine of Right* Appendix, 372



of lawful coercion, “everyone follows his own judgment”<sup>212</sup>, and the individuals pursue their ends by following “the unsocial characteristic of wanting to direct everything in accordance with his own ideas”.<sup>213</sup> In the juridical state, however, matters of justice are settled by the sanction of Public Law, that is, until a “competent judge can be found to render a decision having the force of law”.<sup>214</sup> This force, as it has already been explained, is the force enacted by the legitimate use of coercion.

It is plain that one of the obvious reasons for inaugurating a state is the necessity for an external authority to embody the force of law. However, the point is crucial for Kant in its connection to the issue of revolution. I contend that, for Kant, the essential mistake underlying revolutions is that they spring from the premise that the people *retain* a right to pass judgment to the extant authorities, and the result of that verdict serves as a justification for taking arms against the state.

Kant expresses this worry in the context of a discussion of the social contract. There he identifies that the “revolutionary fallacy” results from thinking the social contract as a *fact* and not as a rational criterion to judge current constitutions. This assumption, Kant goes on to argue, is based on a deeply-held belief that the people “retain the right to abrogate the original contract *at its own discretion*, if, in the *opinion of the people*, the contract has been severely violated”.<sup>215</sup> That he has in mind a view held specifically by revolutionaries is immediately confirmed by an explicit – and much pertinent- reference to Danton, who, professing this mistaken view, declares that “all property and all rights under the existing civil constitution are null and void”.<sup>216</sup>

There are two leading ideas in Kant’s diagnosis of the “revolutionary fallacy”: on the one hand, the alienation of the idea of the social contract in the body of the ruler precludes the possibility of popular contestability to his judgment; and on the other hand, Kant corroborates here the claim that a revolution would imply a state of anarchy<sup>217</sup>, where *all* relations based on right would be void, a situation, as Waldron

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<sup>212</sup> *Doctrine of Right* §43, 312

<sup>213</sup> *Ideas*, p. 44

<sup>214</sup> *Doctrine of Right* §43, 312

<sup>215</sup> *Theory and Practice*, p. 83, my emphasis.

<sup>216</sup> *Ibid.*, p. 83

<sup>217</sup> On the state of anarchy in Kant see sec. 2.3.1 ‘The argument from anarchy’ of Chapter II.

describes it, where “we must expect that individuals will disagree about right and justice and that this disagreement will lead to violent conflict”.<sup>218</sup>

Moreover, the mitigation of conflicting right claims and senses of justice is thus, for Kant, in the hands of the sovereign, and all revolutions not only make conflicting disagreement irresolvable by bringing about a state of anarchy, but do even more harm by making this conflict permanent, silencing the voice that ultimately settles claims on what is right and what is wrong: the voice of positive law. In a slightly formal version of this thought, Kant states:

For since the people must already be considered as united under a general legislative will before they can pass judgment upon the highest power within the state (*summum imperium*), they cannot and may not pass any judgement other than that which is willed by the current head of the state (*summus imperans*).<sup>219</sup>

Similarly, it is worth examining the marked parallelism this line of thought plays in Hobbes. For Hobbes, conflicting judgments and opinions are an inimical source of unrest, and a detrimental source of the commonwealth’s dissolution. Disputes among men arise when opinions differ “about *mine* and *yours*, *just* and *unjust*”, a condition where “everyone decides them by their own judgment”.<sup>220</sup> Rebellion against the sovereign rests for Hobbes in an “original error”, according to which everyone mistakenly claims “the knowledge of what is just and unjust which belongs to the commonwealth”, thus doing “what one man can do to undermine human society and the civil life of this world”.<sup>221</sup>

Much later, in *Leviathan*, Hobbes reminds us that in entering the social contract, one of the things we transfer to the sovereign –be this a man or one assembly- is our judgment on all affairs concerning “the common peace and safety of the commonwealth”, and so to submit their wills: “...every one to his will, and *their judgments, to his judgment*”,<sup>222</sup> authorizing him to be author of all my actions.

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<sup>218</sup> Waldron, J. (1996) ‘Kant’s Legal Positivism’ *Harvard Law Review*, vo. 109, No. 7, p. 1545

<sup>219</sup> *Theory of Right*, General Remark A in *Kant’s Political Writings*, H. B Nisbet translation, p. 143, my emphasis.

<sup>220</sup> Hobbes, *De Cive* VI, 9

<sup>221</sup> *Ibid.*, XII, 2

<sup>222</sup> Hobbes, *Leviathan*, 17.13

This Hobbesian argument has been named by Jean Hampton as the ‘surrender of judgment’ model of authority,<sup>223</sup> by means of which Hobbes makes possible the justification of absolute sovereignty and the consequent elimination of individual judgments. It has been noted in the literature that attributing this model to Hobbes seems to conflict with his claim that the subjects retain the right to resist the sovereign, on the basis of their right to self-defense. According to Hampton, this places a serious problem at the heart of Hobbes’s theory, implying the idea that:

[T]he sovereign is not the only authority in the commonwealth and that he will have to reckon with disobedience or rebellion on the part of some or all of his subjects if they decide that his laws or actions jeopardize their lives.<sup>224</sup>

It could be argued that a similar worry seems to be present in Kant’s own arguments: on the basis of the subject’s retaining “inalienable rights”, rights which “he cannot give up even if he wishes to”, it might be inferred that the subject could make a judgment against the extant authority if those same rights are endangered by the sovereign’s actions.<sup>225</sup> However, Kant gives little to no explanation on what exactly these “inalienable rights” amount to, nor to the effects of such reservation. The closer we get to an explanation of this claim is found in the *Contest of the Faculties*, where Kant explicitly refers to the rights of men as a “sacred institution” which, however, “remains only an idea” that must always be fulfilled with means compatible with morality. Naturally, pursuing and securing these rights by violent and revolutionary means is always wrong,<sup>226</sup> thus placing a categorical ban to the possibility that they could ever be used by the people to overstep public authority.

This treatment of inalienable rights, in conjunction with Kant’s general considerations on private judgment, provides a parallel to the Hobbesian surrender model suggested by Hampton. Moreover, the Kantian subject not only surrenders all substantial claims on the interpretation and administration of the constitution, but retains a set of inalienable rights that are merely an idea. The Hobbesian subject,

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<sup>223</sup> Cf. Hampton, J. (1986) *Hobbes and the Social Contract Tradition* Cambridge University Press: New York. pp. 116-120

<sup>224</sup> Hampton, J. (1986) in Sreedhar, S. (2010) *Hobbes on Resistance. Defying the Leviathan*. Cambridge University Press: Cambridge, pp. 100-104

<sup>225</sup> Cf. *Theory and Practice*, p. 84

<sup>226</sup> Cf. *Contest of the Faculties*, p. 184n

however, still has available his appeal to self-preservation, bringing its own difficulties to Hobbes's argument for absolute sovereignty.<sup>227</sup>

I turn to Waldron for some final thoughts on this issue. In his provocative paper 'Kant and Legal Positivism'<sup>228</sup>, Waldron rightly connects Kant's account on the sovereignty and judgment as an instance of "authoritarianism"<sup>229</sup> in his thought. This, Waldron argues, becomes clear with respect to the question of the *application* of principles of right and justice. Kant reserves this application to the authority of positive law, yet the *quality* of this law is not open to judgment, less so on the basis of the original inalienability of rights against the sovereign. The contrary view would imply: "turning his back on the idea of our *sharing* a view about right or justice and implementing it in the name of the community", as if it were better "to revert to a situation in which each person acts on his own particular judgment about justice".<sup>230</sup>

I share with Waldron that Kant's position on these issues brings to the fore a solution to the problem of politics of an essentially authoritarian form. But the importance of this point does not lie in indicating the alleged deficiencies of Kant's solution to the problem of sovereignty and its effects on his views on revolution. As I have argued in previous sections, we should keep our democratic expectations distinct from the complexity of Kant's own critique. What I think needs emphasizing are Kant's view on *justice* more generally, and also the connection he draws between legitimacy and positive law as a banner for revolutionary justifications. As Kant himself concludes in the *Doctrine of Right*:

The authority that is now here and under which you live *is already in possession of the right legislation*. Though you may indeed publicly discuss and debate this legislation, you cannot set yourselves up as opposing legislators.<sup>231</sup>

### **2.3.6 The argument from happiness and needs:**

In the context of her defense of a Hobbesian right of rebellion, Susan Sreedhar offers a useful methodological distinction between two types of rebellion: ideological

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<sup>227</sup> This problem is discussed in detail by Sreedhar (2010), chap 3.

<sup>228</sup> Waldron, J. (1996) 'Kant's Legal Positivism' *Harvard Law Review*, vo. 109, No. 7

<sup>229</sup> *Ibid.*, p. 1563

<sup>230</sup> *Ibid.*, p. 1564

<sup>231</sup> *Doctrine of Right*, Appendix, 372, my emphasis

rebellion and rebellion from necessity, further distinguished by their motivations.<sup>232</sup> On the one side, ideological rebellions “are motivated by moral, political, or religious concerns”, whereas rebellions from necessity are motivated by “self-preservation”, where the “lives of the rebels are insecure and they judged rebellion to be the best, or the only, means to self-preservation”.<sup>233</sup> Since the problem of self-preservation is not, at least in his political writings,<sup>234</sup> a concern for Kant, I will depart from the specific content of Sreedhar’s argument on this point.

I think that the distinction between these two types of rebellions is illuminating because, in my view, “necessity” is understood by Kant in a broader sense than Hobbes: namely, as any motivating reason for rebellion, justified on the basis of a *material* and *moral* needs. Interestingly, and contrary to Sredhard’s reading of Hobbes, *both* types of rebellions are rejected in Kant’s critique of revolution.

Kant phrases his argument in the form of a criticism to “the principle of happiness”, one which has “ill effects in political right just as in morality”, and which “can never serve as a valid principle of legislation”.<sup>235</sup> This assertion is the substance of Kant’s more general claim according to which, revolutionary motivations rest on endorsement of this principle, i.e., an idea of happiness which the people “might expect to derive from the institutions or administration of the commonwealth”. This, Kant thinks, is the “usual fallacy” championed by those who defend a right of rebellion, in “allowing the principle of happiness to influence the judgment, wherever the principle of right is involved”.<sup>236</sup>

On my reading, Kant’s “principle of happiness” should be understood as involving the *political*, *moral* and *material* claims of the people, translated by revolutionary rhetoric in terms of needs for, either better constitutions, more participative procedures of justice, an exhortation for spaces for the expansion of freedom, and/or a demand for material well-being. Both these *needs*, in the broad sense we are here proposing, coupled with ideas in favor of radical political change

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<sup>232</sup> Sreedhar, S. (2010) *Hobbes on Resistance. Defying the Leviathan*. Cambridge University Press: Cambridge, pp. 143-144

<sup>233</sup> *Ibid.*, pp. 143-144

<sup>234</sup> Arguments in favor of self-preservation can be found in Kant’s philosophy of history, specially in his discussion with Herder. See *Conjectures on the Beginning of Human History* and Kant’s *Reviews on Herder’s Ideas in Kant’s Political Writings*, pp. 201-234

<sup>235</sup> *Theory and Practice*, p. 80

<sup>236</sup> *Ibid.*, pp. 82-84

over gradual reform are, from Kant's perspective, rejected as a justification for rebellion. As Kersting has succinctly argued, we do not find in Kant a space for claims of right that "arise from one's neediness, since for him " a community of right is not a community of solidarity among the needy, but a community of self-protection among those who have the power to act".<sup>237</sup>

Furthermore, Kant's main conclusion on this issue can be phrased as follows: the motivating force behind revolutions is based on an appeal to the indeterminate character of the principle of happiness, and in doing so, revolutions make "all lawful constitutions insecure" and legislators cease to follow the principle of right, giving way to a principle of benevolence, and so become "despotic" and "paternal", while "the people are unwilling to give up their universal human desire to seek happiness in their own way, and thus become rebels".<sup>238</sup>

This is what Hannah Arendt referred to as the "change of direction" of revolutions, and more specifically of the French Revolution. Arendt states that: "It was necessity, the urgent needs of the people that unleashed the terror and sent the Revolution to its doom", where the original principles of the revolution were overshadowed by "the naked forced of want and need."<sup>239</sup> I think that we can rightly argue that, to a significant extent, Kant's critique of revolution and his discussion of happiness anticipates Arendt's basic conclusions, specially her claim according to which Revolutions "aimed no longer at freedom, [since] the goal of the revolution had become the happiness of the people".<sup>240</sup> Kant recognized that revolutions were driven by the aspiration to resolve the "social question"<sup>241</sup> through political means, leading to political instability and social unrest.

### **2. 3. 7 The argument from publicity:**

Kant's arguments in favor of publicity and the public use of reason seem to be in patent tension with his claims on political obedience and revolutions. However, in a

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<sup>237</sup> Kersting, W. (1992) 'Politics, Freedom, and Order: Kant's Political Philosophy' in *The Cambridge Companion to Kant*, ed. Paul Guyer, Cambridge University Press: Cambridge, p. 345

<sup>238</sup> Cf. *Theory and Practice*, p. 83; 74

<sup>239</sup> Hannah Arendt (1988) *On Revolution*, London, Penguin Books, 1988, p. 61; 221

<sup>240</sup> *Ibid.*, p. 61

<sup>241</sup> *Ibid.*, p. 60

closer look, Kant qualifies his position by circumscribing criticism to the progressive advancement of Enlightenment thought, thus forging a “divorce” between “the public activity of reason and its political effects”.<sup>242</sup> As Astorga observes, he hoped that, in the long run, public reasoning will have an “effects in the common good...to be assimilated by the sovereign and even to become the principle of all legislation”.<sup>243</sup>

Thus, Kant’s insistence on the public character of right is aimed to build bridges between the sovereign’s authority and the subject’s sense of obedience, as well as to advance his agenda for a public and gradually cultivated enlightenment. The principle of publicity is thus presented as the ultimate seal of the original contract, where the individual wills of the contractual parts merge into a single will, with a single voice that represented the aforementioned principle as it appears in *Theory and Practice*: “Whatever a people cannot impose upon itself cannot be imposed upon it by the legislator either”.<sup>244</sup>

Now, consider the argument from publicity in the context of *Perpetual Peace*. Here it becomes plain the connection Kant wants to draw between the “public quality” necessary in all claims of right, and the impossibility of a right of rebellion. The transcendental formula of public right reads: “All actions affecting the rights of other human beings are wrong if their maxim is not compatible with their being made public”. It follows that a maxim to rebel against an –allegedly- unjust state would render the law conditionally binding, so: “The injustice of rebellion is thus apparent from the fact that if the maxim upon which it would act *were publicly acknowledged*, it would defeat its own purpose. This maxim would therefore have to be kept secret.”<sup>245</sup>

At first glance, it certainly looks as though the vindication of a principle of publicity as a criterion to judge the original contract seems to be, in reality, basically ineffective. It could be objected that, on the face of a systematic violation of rights, the people would be justified in publicly expressing a maxim of rebellion. To this objection, Kant resorts to the following explanation in the form of a thought-

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<sup>242</sup> Astorga, O. (1999) *El pensamiento político moderno: Hobbes, Kant y Locke* Universidad Central de Venezuela: Caracas, p. 375

<sup>243</sup> *Ibid.*, p. 375

<sup>244</sup> *Theory and Practice*, p. 85

<sup>245</sup> Cf. *Perpetual Peace*, pp. 126-127

experiment: Before establishing the civil state, people are asked if they can make it a condition for founding the new constitution whether “it dares to make public the maxim of its intention to rebel on certain occasions”. It follows that, if such a maxim were made public, “the people would have to claim rightful authority over its ruler”, and thus the establishment of the state would become impossible.<sup>246</sup>

Again, the formal structure of this argument seems to leave the objection untouched. However, I think that the apparent limitations of the effects of publicity in the actual exercise of the sovereign’s authority are due to Kant’s confidence in two claims: first, that the sovereign power should, and *must*, be responsive to the people’s opinions when he has deviated from the spirit of the social contract; and second, that through the practice of freedom of the pen, the progressive creation of a public opinion would improve and solidify the basis for the duty of obedience, by requiring each individual “to be convinced by reason that the coercion which prevails is lawful”, and consequently to lessen the proliferation of dissent.<sup>247</sup>

We can see from the above that both of these claims are meant to serve as an argument for the cohesion of obedience on the part of the citizens, and for the assurance of authority on the part of the sovereign’s maturity. Once these premises are brought to light, we are able to uncover, once again, Kant’s deep concern on the issue of revolution and sedition as a problem with a *public* and *political* dimension.

From this perspective, I think that we should read Kant’s remarks on freedom of the pen and critical thinking as aiming *not* at boosting “political unrest”,<sup>248</sup> in Kant’s own words, but on the contrary, as an appointed *input* for the sovereign to: rectify when necessary, impose laws akin to the spirit of freedom,<sup>249</sup> and more importantly, to make him “aware that he possesses *irresistible* supreme power” to make public his maxim “that he will punish any rebellion by putting the ringleaders to death, even if they believed that [the sovereign] was himself the first to infringe the law”.<sup>250</sup>

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<sup>246</sup> *Ibid.*, p. 126; for a version of this argument Cf. *Doctrine of Right*, General Remarks A, 319

<sup>247</sup> Cf. *Theory and Practice*, pp. 84-85

<sup>248</sup> *Ibid.*, p. 85

<sup>249</sup> *Ibid.*, p. 85

<sup>250</sup> *Ibid.*, p. 127. For a different, and more charitable, interpretation see O’Neill, O. (1989) *Constructions of Reason. Explorations of Kant’s Practical Philosophy* Cambridge University Press: Cambridge, Part II, Chap. 2



It contend thus, that Kant's emphasis on the exercise of a *critical* public opinion serves a threefold role: first, to guarantee an input for the maturity and regeneration of state authority; second, to serve as a channel for social and political discontent; and thirdly, as a means to influence a sense of confidence and trust in our constitutional obligations, especially that of obedience to the extant authorities, regardless of our public judgments of felt discontent. As Filkschuh acknowledges, freedom of the pen comes as the "public counterweight" to the legitimate –and absolute- coercive authority of the sovereign, who may choose to lend his ear to the public or to remain intolerant to the recalcitrant subject, and *still* "retain legitimacy merely in virtue of being the sole possible representative of the idea of the general united will".<sup>251</sup>

Contrary to this moderate reading of the reformist potential of Kant's endorsement of publicity and freedom of speech, Jürgen Habermas's<sup>252</sup> interpretation of Kant's discussion of publicity in the context of his critical philosophy, has been devoted to show that this is "the one principle that could guarantee the convergence of politics and morality", thus creating a public sphere able to harmonize the enlightenment's "critical use of reason" with the principle of legal order. According to Habermas, Kant rehabilitated a dynamic discouraged by Hobbes's neutralization of civil society, "along with its conflicts of conscience, as a private sphere",<sup>253</sup> by showing the importance of critically crafting what he calls "a collective oneness of the combined will of all",<sup>254</sup> that could bring back into the public sphere what Hobbes had eradicated "at the price of monopolizing public power in the hand of the monarch" for the establishment of peace.<sup>255</sup>

I agree with Habermas in that the argument for publicity is strictly related to Kant's encouragement for the progressive enlightenment of the masses, and also for the creation of a more robust and stable legal order. However, it is clear from Kant's own conception of the problem of politics,<sup>256</sup> that morality is a matter of the private

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<sup>251</sup> Filkschuh, K. (2008) 'Reason, Right, and Revolution: Kant and Locke' *Philosophy and public Affairs* 36, No. 4, p. 395

<sup>252</sup> Habermas, J. (2011) *The Structural Transformation of the Public Sphere* Polity: Cambridge.

<sup>253</sup> On the issue of Hobbes's separation of the *foro interno* and the *foro externo*, as a solution for the political problem of religious civil wars see Reinhart Koselleck's thesis in *Critique and Crisis* (1988) Chap. 2; cf. Hobbes, *Leviathan* 15,79

<sup>254</sup> Habermas (2011), p. 109

<sup>255</sup> *Ibid.*, pp. 103-104

<sup>256</sup> See Chapter 1, sec 1.4 'Order and freedom: Kant's solution to the problem of politics'.

sphere of the individual, and the birth of a “collective oneness” as the one Habermas’s envisions should be created in the strict limits of the *public* character of right, for the coexistence of *external* freedom.

Moreover, I think that Kant learned from Hobbes that the reconciliation of order and freedom in the context of a juridical state could only be done by posing significant constraints to the effects of an active public sphere. So, Habermas’s accusation against Hobbes’s “neutralization of civil society” could, in my view, be directed to Kant as well, whom, in the manner of Hobbes, made a sharp separation between the private and public realms.

### **2. 3. 8 *The argument from the highest political good:***

Kant takes crucially into account the inclinations and interests of human beings. In this sense Kant may be rightly considered a political realist in the Machiavellian and Hobbesian tradition, which, according to Strauss, abandoned “the original meaning of the good society or the good life” for a realistic reflection on the foundations of civil society. Thus Kant is aligned with a tradition that shifts the question of Classical political philosophy, from “how men ought to live” for a right order of society to emerge, to answering the question of “how men actually live”, a shift where “the root or the efficient cause takes the place of the end or of the purpose”.<sup>257</sup>

It is a telling sign of the difficulties surrounding Kant’s political philosophy that ideas such as the Kingdom of Ends,<sup>258</sup> do not seem to sit terribly well with what I have just suggested. However, we are able to take these tensions as a matrix to distinguish between Kant’s teleological and moral considerations, on the one side, and Kant’s realistic considerations in matters of politics on the other side. The realm of the juridical condition is not the realm of ends, although from the perspective of the ideal and the march of moral progress, they should coincide. Moreover, I think that even in Kant’s more optimistic expectations of this process, going from a state of

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<sup>257</sup> Cf. Strauss L. (1953) *Natural Right and History* The University of Chicago Press: Chicago, pp. 178-179

<sup>258</sup> Cf. Kant, I. (2012) *Groundwork of the Metaphysics of Morals* Eds. Gregor & Timmermann, Cambridge University Press: Cambridge.

“empirical politics”<sup>259</sup> to the “sublimely metaphysical” Idea of a perfect Republic would not imply the moral improvement of men as individuals, but what Riley calls “the sublimation of conflict” in terms of hostilities and violent threats.<sup>260</sup> As a consequence of this, Kant acknowledges that the “highest *political* good” is thus not the *summum bonum* in the manner of the Classical tradition of political philosophy, but the distinctively Kantian notion of “perpetual peace”.<sup>261</sup> He evaluates this process as the slow advancement of gradual reforms such that “no attempt should be made, however, to realize this Idea precipitously through revolutionary methods, that is, by the violent overthrow of a previously existing imperfect and corrupt [government].”<sup>262</sup>

Two features in particular deserve emphasis: firstly, the fact that Kant himself draws a clear distinction between the ideal state –that is, a perfect republic-, and the “imperfect and corrupt” empirical examples we have at present. Secondly, and more importantly for my interpretation, Kant also identifies “perpetual peace” as the end to which all states should progress towards as a distinctively *political* end, i.e., “the highest political good”.

To be sure, Kant does not always keep these levels of the discussion apart, but from the outset, at least in his political philosophy, he embarks on an analysis that does not dissolve the empirical, existing tensions within civil society, but rather incorporates them in a realistic conception of politics, where conflict and the necessary means of coercion to control it becomes an essential part of his doctrine. Similarly, he argues for the possibility of the compatibility of principles of right and empirical politics, if right is not to be reduced to a mere empty idea.

We read in *Perpetual Peace* that: “[I]f we consider it absolutely necessary to couple the concept of right with politics, or even to make it a limiting condition of politics, it must be conceded that the two are compatible”.<sup>263</sup> Thus, in the manner of Machiavelli and Hobbes, Kant combined his idealism with “an anti-idealistic view, if not of the whole, at any rate of the origins of mankind or of civil society”,<sup>264</sup> adding in my view a distinctively Kantian value to the notion of peace as the ongoing eradication of conflict.

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<sup>259</sup> *Perpetual Peace*, p. 125

<sup>260</sup> Riley, P. (1983) *Kant's Political Philosophy* Rowman & Littlefield Publishers: Totowa, p. 123

<sup>261</sup> *Doctrine of Right* §62 355

<sup>262</sup> *Ibid.*, §62 355

<sup>263</sup> *Perpetual Peace*, Appendix I, p. 118

<sup>264</sup> Strauss (1953) p. 178

So, for Kant, the highest political good is peace, not freedom, as his more radical followers expected.

### ***A Recapitulation:***

It could seem that the arguments I have given above for the Kantian critique of revolution, serve to make Kant's political philosophy more or less a reiteration of Hobbes's original insights. However, while I think that the closeness of their attitudes towards state order and the causes that tend to dissolve it is highly revealing, there remain fundamental differences in their respective outlooks, which call for scrutiny. After all, Kant is presented with a different political and historical situation than that of Hobbes, and his critique of revolution springs from, but also exerts its influence beyond, his political philosophy. Kant's critical philosophy has at its heart the problem of freedom, and this pivotal notion has, in my opinion, a prominent presence throughout the totality of Kant's philosophy that is absent in Hobbes. However, it is precisely in his political philosophy that the notion of freedom as autonomy stands in the most evident tension with other aspects of his thought.

### **Chapter III: The Nature of Kant's Political Thought**

In this Chapter, I locate my interpretation of Kant's political thought and his critique of revolution, within the broader context of the Enlightenment. To carry out this task, I compare Kant's views to Reinhart Koselleck's<sup>265</sup> thesis, in order to bring to light that Kant is an exception to the radical strands of the Enlightenment. I will finally draw some general considerations on the nature of Kant's political thought. I claim that Kant's conception of the problem of politics, as presented at the outset of this study, marks him as a distinctive responsible political thinker, and characterize the nature of his political thought along the lines proposed by Sheldon Wolin in his discussion of liberalism.<sup>266</sup> This discussion, I trust, is relevant for two reasons: On the one hand, because a clearer positioning of Kant's particular responses to the problem of politics, and of the issue of revolution in the universe of the Enlightenment, will further highlight the distance he kept from any kind of radicalism and utopianism. On the other hand, an analysis of the topic of Kant and liberalism will hopefully also help in demarcating the specificity of his political views. Thus this chapter is aimed at reinforcing my arguments of Chapter 1 and 2, and to offer an over-arching view of the uniqueness and complexity of Kant's political thought.

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<sup>265</sup> Koselleck, R. (1988) *Critique and Crisis* The MIT Press: Cambridge MA.

<sup>266</sup> Wolin, S. (2004) *Politics and Vision* Princeton University Press: Oxfordshire.

### ***3. 1 Kant and the Enlightenment: an exception to Koselleck's thesis.***

Kant has been often characterized as the paradigmatic thinker of the Enlightenment. However, I think that this claim cannot be maintained without certain qualifications, once we explore the nature and temper of Kant's political thought. To discuss the point, I will address Reinhart Koselleck's core thesis on the Enlightenment,<sup>267</sup> in order to argue that Kant is an *exception* that basically goes against, and not an example that corroborates, Koselleck's picture of the Enlightenment as a philosophy marked by Utopian thinking, political irresponsibility, and a hypocritical stance on the connection between critique and crisis.

Throughout this study, I have defended the claim according to which Kant's conception of the problem of politics as the reconciliation between order and freedom, permeated the basis of his anti-revolutionary critique. Once again, Kant's commitment to the preservation and continuity of the civil condition, his restricted view of participatory politics, and his favoring of a state for the protection of freedom and not its maximization, does not seem to fit with the general spirit of the Enlightenment as the era of radical criticism, democratic tendencies, and the promotion of self-rule.<sup>268</sup>

Thus, the most fruitful way I have found to disentangle Kant's particular relation to the philosophical universe of the Enlightenment has been my means of contrasting it with Koselleck's thought-provoking portrayal of this era. According to Koselleck, the driving force of the Enlightenment was aimed at directing a moralistic critique to the established political order, a critique whose political consequences remained concealed from the Enlighteners themselves. In Koselleck's words: "The critical process of the Enlightenment conjured up the crisis in the same measure in which the political significance of that crisis remained hidden from it."<sup>269</sup>

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<sup>267</sup> In his 1987 Preface to *Critique and Crisis*, Koselleck asserts that his original intention was to test his arguments by reference to Kant's *Critiques*, and their "political function during the age of Absolutism". (p. 1) Though he eventually departed from this ambitious project, it is, I think, clear that Kant plays an important role in the book, and that Koselleck sees in Kant's works another illustration of the Enlightenment's "culture of critique", an interpretation which I argue is essentially mistaken.

<sup>268</sup> This tenet forms the agenda of what Israel calls "radical Enlightenment" Cf. Israel, J. (2001) *Radical Enlightenment. Philosophy and the Making of Modernity 1650-1750* Oxford University Press: Oxford, pp. 16-17.

<sup>269</sup> Koselleck (1988),p. 9

As I understand the gist of Koselleck's argument, his portrayal is basically a complaint, directed against the general tendency of the Enlightenment to take criticism as a "seemingly non-political" tool for their attempt to moralize politics and, even more importantly for our present discussion, to conceive of revolution not as civil war but as "the fulfillment of moral postulates", in the manner of the radical Kantians described in previous sections of this study.<sup>270</sup>

Therefore, a central point of *Critique and Crisis* is to show the importance of the emergence of the philosophy of history in the XVIIIth century, as the instrument to channel the discontents of this group of thinkers,<sup>271</sup> based on their identification of the fractures between the state and society and between politics and morality.

Koselleck's driving thesis is thus that, in the course of the separation between morality and politics as a result of the end of the religious wars in Europe, and the inauguration of the Absolutist State, the individual recoiled into the private space of her consciousness as the only sphere from which reality could be judged. It was from this perspective that the Enlightenment passed trial against the State, alienated from political realities. From this standpoint, the individual becomes "a stranger to reality", viewing the political domain as "a heteronomous definition that can only stand in his way". This process, Koselleck concludes, cultivated an essential clash between politics and a newly developed philosophy of history, as the vehicle that was able to negate the heteronomous character of politics through "Utopian constructs of the future".<sup>272</sup>

If this is indeed a correct picture of the Enlightenment, I fear it is simply not possible to make Kant part of it, for two main reasons: First, Kant's arguments against revolution, and his conception of politics more generally, give abundant evidence of the connection he saw between private judgment and political action. In this sense,

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<sup>270</sup> *Ibid.*, pp. 85; 185.

<sup>271</sup> Mainly Diderot, Voltaire, Simon, Bayle, as well as the representatives of the Republic of Letters, and the *Illuminati* movements.

<sup>272</sup> Koselleck (1988) pp. 11-12. As the reader may rightly notice, this thesis resonates some of the basic ideas in Bernard Yack's diagnosis of the reaction of the radical Kantians to the events in France, and their need to implement in reality their *moral* commitment to Kant's philosophy of freedom as autonomy. The abolition of the *ancien régime* appeared to them as the affirmation of this philosophy, in other words: "Heteronomy represent[ed] an external condition of the world that the Revolution tried to abolish". Cf. Yack (1992) p. 114

Kant closely detected that the public use of reason has to be harmonized, through coercion and state order, with the inherent legitimacy of the extant authorities. Secondly, Kant's solution to the problem of politics through the continuity and solidification of the civil condition, in addition to progressive reforms in favor of better constitutions, was not conditioned by morality. In this sense, Kant *privatized* morality in the manner of Hobbes, in contrast to the Enlighteners' intentions to make the private sphere the locus of political criticism and the spur for political change.

More specifically, on the issue of the Enlightenment's philosophy of history, I argue that Kant, again, did not on his side use it as a vehicle of self-deception, and his thoughts on it cannot be fairly characterized as utopian *in Koselleck's sense*. According to Koselleck, civil war appeared to the Enlighteners as "harmless", being justified "by a philosophy of history for which the intended political resolution only represented the predictable but inevitable end of a moral process beyond politics."<sup>273</sup>

Surely, Kant did manifest at various points of his work a belief in progress and the coming about of a state of perpetual peace, based on an appeal to the cunning of Reason, and the benevolence of Providence as Nature.<sup>274</sup> However, in works such as *Conjectures on the Beginning of Human History* he warned us about the "empty yearning" for utopia,<sup>275</sup> and made it clear in *The Contest of Faculties* that, though it may be considered agreeable "to think up political constitutions which meet the requirements of reason...it is *foolhardy* to put them forward seriously, and punishable to incite the people to do away with the existing constitution".<sup>276</sup>

It remains no less true that, on the one side, we also find Kant defining his times as "the age of criticism", calling his contemporaries to raise above their self-incurred immaturity.<sup>277</sup> On the other side, however, Kant defended a *political* doctrine marked by strict limits on freedom and passive obedience of the sort I have described throughout this study.

To conclude this section, I think it is right to characterize Kant as a distinctive figure, who does not respond to the charges Koselleck attributed to the Enlightenment

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<sup>273</sup> Koselleck (1988) p. 185

<sup>274</sup> Cf. *Perpetual Peace*, pp. 110-114; *Conjectures on the Beginning of Human History*, pp. 229-234

<sup>275</sup> *Conjectures on the Beginning of Human History*, p. 233

<sup>276</sup> *Contest of the Faculties*, p. 188

<sup>277</sup> *What is Enlightenment?*, pp. 55-56



thinkers in general. More specifically, Kant is part of what Jonathan Israel calls the moderate strand of the Enlightenment,<sup>278</sup> belonging thus to the German, rather than the French trend of this tradition.<sup>279</sup> More than in any other issue, Kant's views on revolution become a clear instance of the *responsible* character of his political thought, concerned not merely with intentions but with likely outcomes of political action, and serve as further evidence of Kant's recognition of the radical potential of the Enlightenment's agenda, as understood and articulated by Koselleck.

Kant understood the intimate connection underlying critique of the extant political order and crisis, that is, the relationship between the basic principles of the Enlightenment and the politically destabilizing consequences of their content. This recognition on Kant's part runs contrary to the core of Koselleck's thesis, according to which the Enlighteners' fascination with criticism remained concealed in the "tactical camouflage"<sup>280</sup> of political irresponsibility, and in their incapacity to see "the historical significance of the process [they] had set in motion".<sup>281</sup>

As I hoped to have shown, Kant's critique of revolution, and the Hobbesian nucleus of his political philosophy more generally, provide ample confirmation of a politically responsible position, which discerned the historical significance of the process in question, namely, the unleashing of modern revolutions.

### 3. 2 *Kant and liberalism:*

Kant's political thought has been defended from the extreme ends of the political spectrum. His political philosophy has been interpreted –as in this thesis-- as mainly cautious and authoritarian in character,<sup>282</sup> whilst for others "Kant's democratic aspirations are plain" such as to make him a distinct representative of liberalism,<sup>283</sup> he has even been portrayed as an instance of a "radical democrat in the Marxist sense".<sup>284</sup>

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<sup>278</sup> Israel (2001) pp. 15-18

<sup>279</sup> For the differences between the German and French outlook of the Enlightenment see Haikala (1997) 'Criticism in the Enlightenment. Perspectives on Koselleck's *Kritik und Krise* Study.' *Finnish Yearbook of Political Thought*, Vol. I, pp. 70-86

<sup>280</sup> Koselleck (1988) p. 117

<sup>281</sup> *Ibid.*, pp. 123; 118

<sup>282</sup> Cf. Vlachos (1962); Waldron (1996)

<sup>283</sup> Westphal, K. (1992) 'Kant on the State, Law, and Obedience to Authority in the Alleged Anti-Revolutionary Writings.' *Journal of Philosophical Research* 17, p. 409

<sup>284</sup> Seeböhm T. (1981) 'Kant's Theory of Revolution', *Social Research*, Vol. 48, No 3., p. 566

Given the astonishing discrepancies in opinions regarding the nature of Kant's political views, I think it may be useful to contribute some final thoughts on this issue. I have thus far argued for basically three claims: firstly, that Kant has a definite understanding of the problem of politics as the attempt to reconcile order and freedom. Based on a broadly pessimistic picture of human nature, and a valuation in favor of the preservation and continuity of the civil condition over radical forms of political change, Kant developed a political doctrine where the safeguard of sovereign power in the hands of positive law and the extant authorities, demanded limitations on freedom in the form of political obedience, and a reduced space for public participation. Secondly, Kant's critique of revolution must be read as an answer to this conception of politics, which accordingly repudiates revolutionary change in the light of these commitments. I have tried to show that Kant sees peace and not freedom as the highest political good, following Hobbes in highlighting the importance of eradicating war and mitigating conflict for the security and stability of the civil condition. Finally, in placing Kant in the broader universe of the Enlightenment, I argued that his political thought emerges as distinctively *responsible*, in recognizing the potential of paradigmatic tenets of the Enlightenment predominant political trends as motivating forces for instability and violent strife. This, Kant realized, ran contrary to the real spirit of critique, as a means to create better and more secure spaces for freedom, to be exercised within the framework of the law.

With this in view, the question of the nature of Kant's political philosophy is pertinent to our discussion, in order to tie together the various elements of his thought. To this question, I contend that Kant can be considered a "liberal" political thinker of a strongly conservative bent. Here I understand "liberal" *in a specific sense*, as developed by Sheldon Wolin in his outstanding book *Politics and Vision*.<sup>285</sup>

Wolin has in my opinion persuasively argued that our present age has, for a variety of reasons, "lost touch with the original temper and outlook of liberalism", and hence is willing to accept at face value a caricature that characterizes it as:

[...]Optimistic to the point of naiveté; arrogant in its conviction that human reason ought to stand as the sole authority for knowledge and action; bewitched by a vision of history as an escalator endlessly moving upwards towards greater progress; and blasphemous in

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<sup>285</sup> Wolin, S. (2004) *Politics and Vision* Princeton University Press: Oxfordshire.

endowing the human mind and will with a godlike power of refashioning man and society in its entirety.<sup>286</sup>

Rightly, I believe, Wolin points out that this caricature is the result of lumping together two distinct traditions of political thought: on one hand, Rousseauian democratic radicalism, and on the other genuine liberalism.<sup>287</sup> The paths of these traditions differ “in their contrasting faiths concerning the ability of the human mind to fathom reality and to translate the results into practical actions”.<sup>288</sup>

It is in this second tradition, the tradition of liberalism as “a philosophy of sobriety, born in fear, nourished by disenchantment, and prone to believe that the human condition was and was likely to remain one of pain and anxiety”,<sup>289</sup> where I think we should place Kant’s political thought. His assessment of human nature, coupled with the political realism of his conception of the juridical condition as essentially vulnerable, and a recognition of the consequences that resulted from following the utopian and redeeming hope embodied by modern revolutions, are some of the reasons why Kant’s political philosophy is closer to the “temper and outlook” of genuine liberalism.

This original form of liberalism is the one Wolin tries to distinguish from what could be a general understanding of this tradition along the lines of a redistributionist state, concerned with matters of social justice and equality. That Kant would not fit into *this* sense of liberalism is confirmed, for example, when he says that: “The equality of human beings as subjects of the state is...perfectly consistent with the utmost inequality of the mass in the degree of its possessions”,<sup>290</sup> and his conception of the state as a sphere of equal claims of right, and of equality in respect to the authority of the law.

Moreover, this characterization is broad enough to make sense of the fact that Kant’s liberalism cannot be of the kind that praises more democratic forms of

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<sup>286</sup> *Ibid.*, p. 263

<sup>287</sup> For George Sabine (1952) there are mainly two democratic traditions: a characteristically Anglo-American tradition, represented by Locke and based on freedom, and a characteristically French tradition, represented by Rousseau and based on equality. Cf. Sabine, G. (1952) ‘The Two Democratic Traditions’ *The Philosophical Review*, Vol. 61, No. 4, pp. 451-453

<sup>288</sup> Wolin (2004) p. 266

<sup>289</sup> *Conjectures on the Beginning of Human History*, p.263

<sup>290</sup> *Theory and Practice*, p.75

government, actively promotes political dissent, and respects and encourages civil resistance and rebellion against the existing political order. These ideas, as important as they are from our contemporary standpoint, were not, as we have seen in this study, Kant's own.

However, it is not my intention here to evaluate the possible limitations of Kant's thought, but hopefully to arrive at a better and fairer understanding of the nature of his views. In this sense, Kant was no mere defender of the status quo, but rather what Klaus Epstein calls a "Reform Conservative", to distinguish it from a "Reactionary".<sup>291</sup> The defender of the status quo "is fundamentally content with the world, whereas the Reform Conservative is restless and the Reactionary embittered". The Reform Conservative "prefers gradual reform, if possible within the existing constitutional framework, to violent and rapid change", and wants to "solve the massive problem of adaptation to modernity without any violent break in continuity".<sup>292</sup>

To conclude, Kant's liberalism, such as it is, is nurtured by a reformist view of political progress, a sober and realist analysis of the capabilities and intentions of human beings in their social and political practices, and an essentially conservative view which "knows that a stable order structure thrives not on triumphs but on reconciliation".<sup>293</sup> I have defined this process of reconciliation, in Kant's case, as one which strives for an adequate but never perfect equilibrium between order and freedom.

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<sup>291</sup> Epstein, K. (1975) *The Genesis of German Conservatism*. Princeton University Press: London, pp. 7-9

<sup>292</sup> Epstein, K. (1975) *The Genesis of German Conservatism*. Princeton University Press: London, p. 9ff.

<sup>293</sup> Kissinger, H. (1957) *A World Restored* The Riverside Press: Cambridge, p. 193

## ***Conclusions:***

I am hopeful that the arguments presented in the body of this thesis, can reasonably ground the following conclusions:

Firstly, Kant's critique of revolution stems from two sources: on one side, his conception of the problem of politics; and on the other side the Hobbesian commitments that underlie his political thought. I argued that Kant defined the problem of politics as the reconciliation of order and freedom, or, in other words, as the possibility of coexistent freedom under a rightful condition. Based on a pessimistic view of human nature according to which the interests and dispositions of men, that "evil aspect of human nature which makes coercion necessary"<sup>294</sup>, a political and institutional solution was demanded, thus Kant set out to solve the political problem without making morality a precondition for its solution. The preservation and continuity of the juridical condition requires for Kant a strong political authority, capable of sustaining the validity and legitimacy of positive law, and capable of eliminating conflicting claims of right. Thus, Kant concludes that the highest good of politics is peace, and condemned revolutions on the basis of making this end impossible.

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<sup>294</sup> *Perpetual Peace*, p.126

Secondly, Kant's critique of revolution is a response to the threat of anarchy and of the vacuum of right, and it is also motivated by the uncertain fate of radical and violent experiments. In this sense, Kant's political philosophy in general, and his critique of revolution in particular, should be seen as part of a moderate strand of the Enlightenment, based on the gradualist and reformist character of his political thought. In short, Kant does not belong to the part of Enlightenment described by Koselleck, which promoted political revolution under the veil of the moral transformation of society. Moreover, the nature of Kant's political thought can be rightly defined as of a conservative liberalism.

Thirdly, the persistence of the disappointment felt by Kant's radical followers, and some of his more contemporary interpreters, can be explained, to a large extent, by a refusal to acknowledge Kant's particular conception of politics, and to read his political philosophy from the prism of his moral philosophy. I have argued that the Kantian principle of autonomy as well as his optimism regarding the moral progress of mankind, are not premises at work in his political doctrine. Part of the controversies surrounding Kant's views results from a tendency to extend our democratic aspirations to the actual content of Kant's thought.

Having reached this point in my thesis, it may usefully be asked whether Kant actually rejected *all* revolutions, and absolutely disowned *any* presumed right of rebellion. My reply to the question has to be: yes, he did, as evidenced by what he wrote on the matter, which I have tried to elucidate in this thesis. However, I contend that the deepness of his arguments against revolution, based on a responsible diagnosis on the fragility of civil security, and the effects of radical political change on the stability and continuity of the sphere of right, tell us something important about the phenomenon of revolution, which is still a relevant and important concern to contemporary debates.

A final question that has been latent throughout this study is the relation between my suggested interpretation of Kant's political philosophy and his moral philosophy. It would be an understatement to say that it is a relationship marked by deep tensions, and sometimes irreconcilable positions. However, in exploring Kant's critique of revolution, and the Hobbesian roots of his commitments, I can conclude that as a political philosopher Kant developed a variety of venues for theorizing

matters of right and freedom, which are as interesting and stimulating as the ones we find in his moral philosophy.

It is constant in his political writings to find Kant's depiction of the Ideal Republic running parallel to his assessment on our empirical and more or less imperfect governments. We also find his defense of authority and strict political obedience close to his hopes that, in the long run, the rule of law and a robust public sphere of critical and enlightened thinking will finally reign.

What I have not found in Kant is the view his radical followers and his disappointed readers have sought to discover in his political philosophy. In my opinion, Kant envisions a state for the protection of freedom, and not for its maximization, a state where the civil condition is defined as a sphere for the legitimate use of rights, thus securing the conditions to exercise freedom in the absence of radicalized conflicts. For Kant, this could be achieved independently of our moral motives, and the dispositions of a good will. This does not mean, however, that the Kantian principles of autonomy, respect, and dignity lose their value in the context of the civil condition. On the contrary: it is through the stability of the state and the bonding of the social fabric that the individual can flourish as *both* a moral and a political being.

Thus, my final suggestion would be that, in taking seriously the way Kant addresses the problem of politics, and allowing for a critical and responsible evaluation of his solutions, we gain more rewards than disappointments. It is in this sense that I read Kant's political and moral philosophy running *parallel*, and not against each other, in an open dialogue between how men *ought* to be and how men really *are*.

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